Australian Government
Department of Infrastructure, Transport,
Regional Development, Communications, Sport and the Arts

Airport Building Control

Operations Manual | Version 4.1

October 2026



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ISBN 978-1-923111-25-7

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Version control

Version	Date	Description of amendment(s)	Approved by
1.0	September 2011	Initial release	
1.1	February 2013	Incorporate recommendations from internal audit in September 2012	Not released as Compliance Framework in development
2.0	June 2013	Full revision and alignment with Compliance Framework	Romy Collier, Section Head (released 16 October 2013)
3.0	February 2022	Full revision; amalgamation of ABC Operations Manual and ABC Compliance Framework	Megan Thomas, Director (released 23 February 2022)
4.0	April 2026	Full revision and alignment with the Airports (Building Control) Regulations 2025	Chris Michel, A/g Director (21 April 2026)
4.1	October 2026	Updates related to the revised Airport Building Control Online platform and minor policy clarifications	Chris Michel, Director (14 October 2026)

Document review

The Airport Building Control Operations Manual (the Manual) will be reviewed periodically. Additional amendments may be made on an ad-hoc basis.

Glossary

Term	Definition	Term	Definition
ABC	Airport Building Control(ler)	**Airservices**	Airservices Australia
ABCO	Airport Building Control Online	**(The) Division**	The Domestic Aviation and Reform Division
(The) Act	The *Airports Act 1996 (Cth)*	**EDRMS**	Electronic Document and Records Management System
ABCRs	The Airports (Building Control) Regulations 2025	**EFT**	Electronic Funds Transfer
AEPRs	The Airports (Environment Protection) Regulations 2026	**(The) EPBC Act**	The *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*
AEO	Airport Environment Officer	**Fire authorities**	Aviation Rescue and Fire Fighting Service and/or the relevant state or territory fire authority
ALC	Airport Lessee Company	**(The) FOI Act**	The *Freedom of Information Act 1982 (Cth)*
AOC	Airport Operating Company	**(The) Manual**	The Airport Building Control Operations Manual
APARs	The Airports (Protection of Airspace) Regulations 2026	**MDP**	Major development plan
ART	Administrative Review Tribunal	**NCC**	National Construction Code
ASIC	Australian Security Identification Card	**PERCOW**	Permit to Commence Works
CASA	Civil Aviation Safety Authority	**RFI**	Request for Information
(The) Department	The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts	**WHS**	Work Health and Safety

1. Introduction

Context

1.01 The Airport Building Control Operations Manual (the Manual) outlines the building activity application and approval process at leased federal airports (excluding Mt Isa and Tennant Creek Airports), and provides information on procedures, conditions and standards at those airports.

1.02 The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (the department) is responsible for the administration of the *Airports Act 1996* (Cth) (the Act) and the Airports (Building Control) Regulations 2025 (the regulations) which inform the building control regime at leased federal airports.

1.03 This Manual sets out the relevant requirements of the Airport Building Control (ABC) framework, and how it interacts with other legislation, codes and standards to drive consistent, effective and comprehensive compliance management.

1.04 The ABC framework applies a risk-based approach to compliance and assessment, driven by the need to ensure that the regulatory framework allows technical experts to make the necessary professional judgements regarding compliance with the regulations.

1.05 Such an approach also reflects the long-term regulatory environment where responsibility for compliance is shared appropriately between the department, Airport Lessee Companies (ALCs), ABCs, Airport Environment Officers (AEOs) and other stakeholders.

1.06 To contact the department in relation to airport building control regulatory matters, please contact ABCMailbox@infrastructure.gov.au or (02) 6136 8060. Airport Building Control Online (ABCO) matters should be directed to ABCOHelpdesk@infrastructure.gov.au.

Regulatory Principles

1.07 The Ministerial Statement of Expectations sets out the intentions of the Minister for Infrastructure, Transport, Regional Development and Local Government, regarding regulatory functions within the Department, including aviation. The Department has responded to the Regulatory Statement of Expectations with a Statement of Intent. We work to ensure that regulations are fit-for-purpose, transparent and responsive while also reducing regulatory burden. We follow the best practice principles of:

1. **Continuous improvement and building trust**: regulators adopt a whole-of-system perspective, continuously improving their performance, capability and culture to build trust and confidence in Australia's regulatory settings.
2. **Risk based and data driven:** regulators manage risks proportionately and maintain essential safeguards while minimising regulatory burden and leveraging data and digital technology to support those they regulate to comply and grow.
3. **Collaboration and engagement:** regulators are transparent and responsive communicators, implementing regulations in a modern and collaborative way.

2. Airport Building Control framework

Airports Act 1996

2.01 The Act is the primary legislation governing activities at leased federal airports.

2.02 Part 5 of the Act deals with on-airport land use, planning and building controls, and establishes that building works carried out at leased federal airports must be consistent with the master plan (or airport plan, in the case of Sydney West Airport) and any approved major development plans for the airport.

2.03 Division 5 of Part 5 of the Act deals with building controls, including mandatory approval of all building and works activities listed at section 98, and certification of the resulting buildings and structures.

2.04 Sections 100, 107 and 111 of the Act permit regulations to be made for approvals, certificates of compliance, building codes and standards, and infringement notices.

Airports (Building Control) Regulations 2025

2.05 The Airports (Building Control) Regulations 2025 (the regulations) establish a building approval and compliance framework to ensure that building activities on leased federal airports are undertaken in accordance with appropriate building and construction standards and are aligned with airport planning frameworks under Part 5 of the Act.

2.06 The regulations provide greater detail on the information which must be included in a building activity application, the processes by which these applications are to be assessed and decided, and the responsibilities of all parties involved.

2.07 Further, the regulations establish compliance mechanisms which are supported by the penalty provisions contained in the Act.

Building standards

National Construction Code / Australian Standards

2.08 The regulations set building standards at airports with reference to relevant Australian and international building standards.

2.09 The National Construction Code (NCC) incorporates construction requirements into a single code, including the Building Code of Australia. The NCC adopts and refers to numerous standards as suitable methods of achieving compliance with nominated parts of the NCC.

2.10 The NCC incorporates variations addressing special requirements applicable to each state or territory jurisdiction. ABCs assess applications under the NCC, taking account of jurisdictional variations.

Other building standards

2.11 The NCC does not cover all building activities and does not specifically address certain types of buildings (e.g. aircraft hangars). Where the NCC does not apply, ABCs may determine in writing that an application for a building activity must comply with:

- standards proposed or approved by Standards Australia, or
- United States or European Union standards.

2.12 A building activity to which such standards are applied must be fit for occupancy or use when completed.

2.13 Where a proposed development does not comply with nominated standards, the applicant must provide a written explanation of the inappropriateness of compliance with those standards to the ABC. The ABC must approve in writing the non-compliance and may rely on a report or certificate prepared and issued by an appropriate technical expert or regulatory authority to satisfy themselves of the relevant building, works or demolition criteria.

2.14 ABCs may condition an approval to require compliance with relevant standards that are not listed above, so long as the standard mitigates concerns arising from the matters the ABC must have regard to. For example, an ABC may approve an activity subject to the condition it complies with a standard for the purposes of improving the activity's linkage to services off airport (e.g. gas mains supply, or traffic infrastructure).

Airports (Environment Protection) Regulations 2026

2.15 Part 6 of the Act deals with the environmental management of leased federal airport sites (excluding Mt Isa and Tennant Creek Airports).

2.16 The Airports (Environment Protection) Regulations 2026 (AEPRs) are made under section 132 of the Act to:

- establish, in conjunction with national environmental protection measures, a system for regulating, managing and ensuring accountability for activities at leased federal airports which generate, or have potential to generate, pollution or excessive noise, and
- promote continuing improvement of environmental management practices for activities carried out at leased federal airports.

2.17 The AEPRs do not apply to pollution or noise generated by an aircraft.

2.18 Whilst the AEPRs deal specifically with the environmental impacts of activities carried out on an airport site, the impacts or potential impacts of those activities may be experienced outside the airport site. Applicants should be prepared to undertake additional approval and/or notification processes outside of the ABC process in relation to those off-airport impacts.

2.19 Leased federal airport sites are also subject to the requirements of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act) and its associated regulations.

Transition period

2.20 Even though the AEPRs replaced the Airports (Environment Protection) Regulations 1997 as of 1 April 2026, the AEPRs include a 12-month transitional period, during which the Airports (Environment Protection) Regulations 1997 will continue to apply until 1 April 2027, allowing regulated entities time to prepare for and transition to the new regulatory framework.

Airports (Protection of Airspace) Regulations 2026

2.21 Part 12 of the Act and the Airports (Protection of Airspace) Regulations 2026 (the APARs) establish a system for the protection of airspace at, and around, airports in the interests of the safety, efficiency or regularity of existing or future air transport operations into or out of airports. The APARs also provide a mechanism to assess proposals for, and manage intrusions into, prescribed airspace.

2.22 The Act defines certain activities resulting in an intrusion into an airport's protected airspace to be a "controlled activity", and requires that controlled activities cannot be carried out without approval.

2.23 All applications to undertake a controlled activity are submitted to the airport operating company (AOC) of the relevant leased federal airport. Decisions under the APARs relating to controlled activity applications are made by authorised delegates of the Secretary of the department, which includes certain employees of the department, and AOCs.

2.24 In deciding whether to approve or refuse an application to undertake a controlled activity, the delegate will consider the effect of the controlled activity on the safety, efficiency and regularity of existing and future air transport operations into and out of the airport, and will take account of the views of the Civil Aviation Safety Authority (CASA), Airservices, the ALC, in the case of joint-user airports, the Department of Defence and the views of any other stakeholder that may be relevant (e.g. airlines, users of the airport, etc.). The delegate may impose conditions on a decision.

2.25 The APARs specify a 40 working day decision-making timeframe for a controlled activity application. There is also a provision for the delegate to extend this timeframe by a further 10 working days. The delegate may also request additional information from the applicant, during which time the decision-making clock is paused.

2.26 Section 23 of the APARs sets out that a **building authority** that receives a proposal for a building activity must notify the AOC of the relevant airport of the proposal if the activity, if undertaken, would constitute a controlled activity in relation to prescribed airspace connected with the airport. For on-airport site developments, the building authority is the ABC. The building authority must give this notice as soon as reasonably practicable, and before a final decision on the proposal is made. A building authority who fails to comply with this section commits an offence against section 186 of the Act.

2.27 Building authorities perform an integral role in minimising the risk of a person carrying out a controlled activity without the necessary approvals under the Act and APARs. Unauthorised controlled activities present an unacceptable risk to aviation safety. A person may commit an offence against section 183 of the Act, and remedial orders may be made under section 187 of the Act, if a controlled activity is carried out other than in accordance with an approval. The requirement for building authorities to refer applications to the relevant AOC connects on-airport development processes with the controlled activity assessment process, minimising the risk of unauthorised activities occurring.

2.28 Enquiries for controlled activities should be directed to the relevant AOC.

Authorities, referral bodies and links with other legislation

Fire authorities

2.29 Applications for approvals and certificates of compliance may be referred to the Aviation Rescue and Fire Fighting Service and/or the state or territory fire authority (collectively ‘fire authorities’).

2.30 Where appropriate, the ABC may include recommendations from fire authorities in approvals and certificates of compliance, as a condition or otherwise.

2.31 The regulations provide that the operation of state and territory laws regarding the protection of persons against fire is not affected by the operation of the regulations.

Health and safety

2.32 Food hygiene and health requirements are enforced by state, territory and local governments and, as a result, there will be differences between jurisdictions. The control and administration of these requirements may be performed by either the ALC or state/local government, whichever the ABC deems appropriate.

2.33 In issuing any approvals, the ABC must ensure that any health-related conditions of approval are included in the documentation. Where required, the ABC may refer the application to the relevant local health authority. Examples where this may be required include food premises, hairdressers, skin penetration premises, boarding houses, mortuaries, hospitals, etc.

2.34 The regulations do not specifically require ABCs to liaise with or inform state, territory or local government authorities that deal with work health and safety (WHS) matters; however, ABCs are expected to refer any observed unsafe practices to the ALC and any relevant authority.

2.35 The *Commonwealth Places (Application of Laws) Act 1970 (Cth)* provides for relevant state and territory WHS laws to apply at leased federal airports.

2.36 The operation of state and territory law relating to WHS matters is not affected by the operation of the regulations.

Other authorities

2.37 Where a regulatory authority is authorised or required by law to regulate works for the supply of gas, water, electricity or sewerage services, the applicant shall refer the proposed development to the authority. The applicant must provide the ABC with a copy of the information required by the authority, and a copy of any permits or approvals issued by that authority (subsection 15 (k) of the regulations).

2.38 In some instances, the supply authority for utilities and services will be the ALC, e.g. where there is an on-site solar power generation facility servicing tenancies.

3. Roles and responsibilities

The department (Domestic Aviation and Reform Division)

3.01 The Domestic Aviation and Reform Division (the division) within the department is responsible for administering the Act and its associated regulations at leased federal airports. The division provides ongoing assessment and oversight of major airport developments, including developments likely to have a significant community impact, and advises the Minister on a broad range of regulatory oversight matters. The division achieves its oversight of compliance with the regulations and AEPRs with the assistance of the ABCs and AEOs.

Airport master plans and major development plans

3.02 A master plan is the key strategic development plan for the airport site. It has a 20-year planning horizon and is updated every 5 or 8 years[1].

3.03 Master plans use aviation traffic data (passenger, freight and aircraft movements) and forecasts to predict the likely future development needs for both aviation and non-aviation land uses at the airport. Permitted land uses are established for precincts within the airport site.

3.04 To minimise potential conflicts between the operation of the airport site and surrounding land uses, an airport's master plan is required to be broadly consistent with neighbouring land use strategies.

3.05 Master plans are also required to contain both an airport environment strategy and a ground transport plan, both of which are also expected to take into consideration, and be broadly consistent with, similar planning tools in place off-airport.

3.06 Major development plans (MDPs) are also required for any *major airport development*, which is defined at section 89 of the Act. This includes the creation or significant alteration of aeronautical facilities (including passenger terminals and aircraft movement areas), certain developments with an estimated cost of construction of $25 million or more, or developments that are likely to significantly impact either the environment or the local or regional community.

3.07 As with master plans, MDPs are required to demonstrate broad consistency with off-airport land uses. Likewise, subsequent applications for building or works permits must demonstrate their consistency with the relevant approved MDP.

3.08 Master plans and MDPs both carry requirements for public consultation prior to submission to the Minister for approval.

3.09 Table 1 below provides a concise overview of the leased federal airport planning framework.

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[1] Replacement master plans are required on a five-year cycle for Sydney (Kingsford-Smith), Melbourne (Tullamarine), Brisbane and Perth Airports. The eight-year cycle applies to all other leased federal airports, except Sydney West Airport at this stage.

Table 1 - Leased federal airport planning framework overview

	Master plans	Major development plans	Building activity approvals
Purpose	20-year strategic vision for the airport site, renewed every 5 or 8 years, including future land uses, types of permitted developments, ground transport planning and environmental and noise impacts.	Approval process for 'major airport developments' as defined by s89 of the Act.	Approval process for building activities at an airport, including construction, demolition and other works.
Decision-maker	The Minister.	The Minister.	ABCs.
Public consultation	60 business days.	60 business days[2].	None, but application details are published on ALCs' websites.
Assessment timeframe	50 business days (10 business day extension available to Minister).	50 business days (10 business day extension available to Minister).	28 calendar days (reset on request for information from ABC).
If no decision is made	Deemed approved at the end of 50 business days.	Deemed approved at the end of 50 business days.	Deemed refused at the end of 28 calendar days.

3.10 Section 89A of the Act requires the proponent of a 'sensitive development'[3] to seek the prior approval of the Minister before bringing forward a draft MDP for the Minister's consideration.

3.11 The airport plan for Sydney West Airport serves broadly the same purpose as the master plans for other leased federal airports.

Airport Lessee Companies (ALCs)

3.12 ALCs have the primary responsibility for managing the broad duties and obligations, as set out in the Act and its subordinate legislation, relating to maintaining, developing and improving the airport precinct.

3.13 As such, the ultimate responsibility for ensuring positive construction, development and environmental outcomes falls to the ALC and, to a lesser extent, airport tenants and operators of undertakings. ALCs must consent to any building activity occurring on site prior to an approval being issued by the ABC.

3.14 As part of their role, ALCs are responsible for preparing, maintaining and ensuring compliance with airport master plans, MDPs and environment strategies. They are also ultimately responsible for ensuring building works do not occur without, or in contravention of, ABC approval.

Airport Building Controllers (ABCs)

3.15 The department appoints and authorises Airport Building Controllers (ABCs) to administer Division 5 of Part 5 of the Act and the regulations at the leased federal airports (excluding Mt Isa and Tennant Creek Airports). ABCs are responsible for providing appropriate regulatory oversight, promoting and maintaining the safety of airport development and operations.

3.16 In addition to administering the legislation, ABCs must ensure that building works at airports meet an appropriate standard. ABCs inform airport operators on building control matters outlined in the regulations and administer the building approval system for ongoing building activity at an airport.

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[2] Section 92 of the Act provides that the Minister may approve a shorter public consultation period of not less than 15 business days on applicant by the proponent.

[3] 'Sensitive developments' are defined at section 71A of the Act.

3.17 ABCs are the department's primary source of information on compliance with the building control regulatory regime. They have the authority and responsibility to determine compliance with applicable regulations and standards and, where necessary, take compliance action against parties that breach their obligations under the regulatory framework. While ABCs may rely on technical advice from other professionals, such as architects and engineers, the decision to issue an approval or certificate of compliance ultimately rests with the ABC.

3.18 As part of their technical role, ABCs must:

- assess applications for approvals, authorisations, determinations, and certificates of compliance in accordance with the regulations, including imposing conditions on decisions where appropriate
- inspect building works and monitor building activity on site, and
- monitor compliance with land use, planning, and building control elements of the Act, including liaising with the AEO for environmental advice (relating to building activity applications).

3.19 As part of their compliance and enforcement role, ABCs may:

- revoke an approval, authorisation, or certificate where necessary to do so
- direct proponents to stop work, carry out remedial works, or demolish works, where an unauthorised building activity is carried out, and
- where appropriate, issue an infringement notice to a person who has committed an offence under Part 5 of the Act.

Appointment of ABCs

3.20 Section 65 of the regulations sets out the requirements and process for appointing ABCs.

3.21 Before appointing an ABC, the Secretary (or delegate) is required to give the relevant ALC(s) written notice of their intention to do so. The ALC has 14 days from the date of the notice to make a submission on the proposed appointment, which the Secretary must consider when making their final decision.

3.22 Appointed ABCs' contact details are listed at www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/airports/airport-building-controls/contacts.

Airports Environment Officers (AEOs)

3.23 Airports Environment Officers (AEOs) are the department's primary source of information on compliance with the environmental regulatory regime. AEOs have the authority and responsibility to make decisions regarding compliance with the AEPRs, and where necessary, take compliance action against parties found to be in breach of their obligations under the regulatory framework.

3.24 The department appoints AEOs to support and guide the achievement of airport environmental standards at leased federal airports, and to administer compliance with the AEPRs and Part 6 of the Act.

3.25 While AEOs do not have an explicit role in the building assessment process under the regulations, AEOs may:

- consult with and assist the ALC to manage environmental issues at the airport in accordance with their AES including, where appropriate, providing advice to inform the ALC's consent for building activities, and
- assist ABCs in their assessment of building activities in accordance with the regulations and the Act. It remains at the discretion of the ABC to determine whether referral to an AEO is required to assist the ABC's assessment of a building application.

3.26 Later sections of this Manual set out the scope of, and limitations on, AEOs' engagement within the ABC process. Further information is also available at Section 9, Item 2.

4. Risk Management

4.01 A risk-based approach to regulatory oversight and enforcement requires ABCs to assess the likelihood and impact of non-compliance, allowing them to respond proportionately to the level of harm. This approach enhances efficiency by directing ABC resources to areas of highest risk. It also aligns with the department's broader compliance framework, which seeks to appropriately share the responsibility for risk management and compliance assurance between ALCs, ABCs, AEOs and other relevant stakeholders.

4.02 The department has a positive risk culture, promoting an open and proactive approach to risk management, and understands that risk is necessary and part of everything we do. We regulate in accordance with our legislation, in an effective, transparent and fair manner to provide safe and efficient outcomes for the Australian public.

4.03 This approach is consistent with the requirements of overarching federal legislation and policy, including the *Public Governance, Performance and Accountability Act 2013 (Cth)*, the Public Governance, Performance and Accountability Rule 2014 and the Commonwealth Risk Management Policy.

Identifying risk

4.04 Risk will often be identified by ABCs during scheduled and routine inspections or via self-reporting (or external sources). Identified risks may include indications of activity occurring in contravention of the regulations (for example, works being undertaken without appropriate approval), observations of unsafe practices or the potential for avoidable detrimental effects on public safety or development outcomes.

4.05 Where required, ABCs are empowered in certain circumstances to gather evidence to determine if an event constitutes a risk or if a breach of legislation has occurred.

4.06 ABCs must document and record all necessary evidence (i.e. all inspections, conversations, correspondence and other forms of communication).

4.07 Evidence must be:

- **Documented** – including conversations, meetings and any other correspondence
- **Factual** – free of value judgement, bias and personal preference
- **Relevant** – related to the regulatory / compliance matter, and
- **Defensible** – able to withstand scrutiny.

4.08 All evidence gathered during a compliance or enforcement process is to be uploaded and attached to the relevant application file in ABCO with appropriate permissions to allow both the ABC office and the department to access the information at any time.

4.09 Further information on monitoring compliance and enforcement is at Section 7 of the Manual.

4.10 ABCs may escalate matters to the department for advice on the appropriate course of action where necessary.

4.11 This approach supports the department to effectively manage compliance by directing resources to matters with the greatest risk.

4.12 The department's risk management matrix provides the foundation for the assessment and mitigation of risks to ensure alignment with the regulatory regime.

Figure 1 - Department's risk management matrix

Measure		CONSEQUENCE LEVELS				
		INSIGNIFICANT	MINOR	MODERATE	MAJOR	EXTREME
Likelihood	>80% Almost certain	LOW – 11	MEDIUM – 16	HIGH – 20	SEVERE – 23	SEVERE – 25
	60-79% Likely	LOW – 7	LOW – 12	MEDIUM – 17	HIGH – 21	SEVERE – 24
	30-59% Possible	LOW – 4	LOW – 8	MEDIUM – 13	MEDIUM – 18	HIGH – 22
	5-29% Unlikely	VERY LOW – 2	LOW – 5	LOW – 9	MEDIUM – 14	HIGH – 19
	<5% Rare	VERY LOW – 1	VERY LOW – 3	LOW – 6	LOW – 10	MEDIUM – 15

Table 2 - Risk and required action matrix

RISK RATING	REQUIRED ACTION
Very Low	Monitor locally
Low	Manage locally and include in quarterly report
Medium	Notify the department and include in quarterly report
High	Escalate to the department and seek approval for proposed management strategy
Severe	Escalate to the department for further direction

Risk appetite

4.13 The department has a moderate appetite for regulatory risks, with a low tolerance for systemic non-compliance with regulations. The department is committed to continuous improvement and maintaining effective and efficient regulatory frameworks that are fit for purpose and proportionate to risk.

4.14 The department has no appetite for actions which include or lead to death, serious injury, fraud, corruption, or deliberate or purposeful violations of legislative or regulatory requirements. Additionally, the department has a very low appetite for actions which result in reputational damage, system control failures, unexplained financial variances, information security breaches, and non-delivery of the department's services.

4.15 While the department's internal 'Risk Management Policy and Framework' most clearly applies to departmental employees, ABCs (as contracted suppliers and authorised officers) are also bound to manage risk on behalf of the department. This is especially true on the basis that ABCs have specialist technical knowledge not otherwise available.

5. Building Activities

Overview

5.01 Section 98 of the Act defines the activities that are 'building activities' under the Act:

Table 3 - Definition of Building Activities

Definition of a Building Activity (Section 98 of the Act)

• constructing buildings or other structures[4]
• altering the structure of buildings or other structures
• undertaking, constructing or altering earthworks[5] (whether or not in relation to buildings or other structures)
• undertaking, constructing or altering engineering works, electrical works or hydraulic works (whether or not in relation to buildings or other structures)
• demolishing, destroying, dismantling or removing:
  ○ buildings or other structures
  ○ earthworks
  ○ engineering works
  ○ electrical works
  ○ hydraulic works
• undertaking land clearing, or
• an activity of a kind prescribed in the regulations.

5.02 Section 99 of the Act requires that building activities are not to be carried out without approval from the ABC, unless the activity is of a kind declared by the regulations to be exempt from this requirement.

5.03 Section 106 of the Act provides that buildings, structures, earthworks, engineering works, electrical works, hydraulic works or eligible alteration must not be used or occupied until a certificate of compliance has been issued by the ABC (see later section(s) on certificates of compliance).

5.04 Division 2 of Part 2 of the regulations exempts certain building activities from requiring approval. Division 2 of Part 3 of the regulations exempts those same activities from requiring a certificate.

5.05 The Act establishes penalties for failure to obtain an approval or certificate where such approval or certificate is required.

Airport Building Control Online (ABCO)

5.06 Airport Building Control Online, referred to as ABCO, is the department's web-based portal for the submission of building activity applications, requests for certificates, applications for minor works determinations, and exemption notifications.

5.07 ABCO can be accessed via abco.infrastructure.gov.au or the department's dedicated ABCO webpage. Users can register by clicking 'sign in', and then 'sign up now'.

5.08 The level of access and functions available in ABCO are tied to the user type and role, which is administered by the department. Users requiring additional permissions, such as ALCs, can request these during the account registration process, or by emailing ABCOHelpdesk@infrastructure.gov.au.

5.09 ABCO houses all building activity applications and automatically stores all relevant records (applications, approvals, certificates, requests for information, compliance actions, and supporting documentation) in the department's electronic document management system.

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[4] Structures are defined at subsection 98 (2) of the Act.
[5] Earthworks and engineering works are defined at subsection 98 (3) of the Act.

5.10 ABCO guidance and manuals are published on the department's dedicated ABCO webpage.

5.11 For any other ABCO related matters, please contact the ABCO helpdesk by emailing ABCOHelpdesk@infrastructure.gov.au.

Applications and approval types

5.12 ABCO supports 5 types of applications, outlined in Table 4. The type of application is dependent on the type of approval, determination or action the applicant is required to obtain under legislation.

Table 4 - ABCO application type definitions and approvals

Application Type	Proposed Building Activity	Approval Type	Fee payable
Building and Works Permit	Construction or alteration of a building or other structure, including the alteration or installation of services. ***Note**: a certificate of compliance is included in the workflow for building and work permit applications*	*Building permit*	YES
	Undertaking construction or altering earthworks, civil works, engineering works, electrical works, hydraulic works, land clearing and/or general alterations to structures or buildings. ***Note**: a certificate of compliance is included in the workflow for building and work permit applications*	*Works permit*	YES
Demolition Authorisation	Demolition, destruction, dismantling or removal of a building or works.	*Demolition authorisation*	YES
Minor Works Determination	Building activities that are small-scale, short duration, with only a minor interference to the airport site, that do not create a danger of injury to a person using the airport (see later sections on exempt activities).	*N/A* *ABC's determination*	NO
Exemption Notification	Building activities of a kind listed at subsection 11 (1) of the regulations (see later sections on exempt activities).	*N/A*	NO
Certificate of Compliance (Standalone)	Certificate to occupy or use an existing building or works that were not the subject of a building approval.	*Certificate of Compliance*	YES

Application status and lifecycle

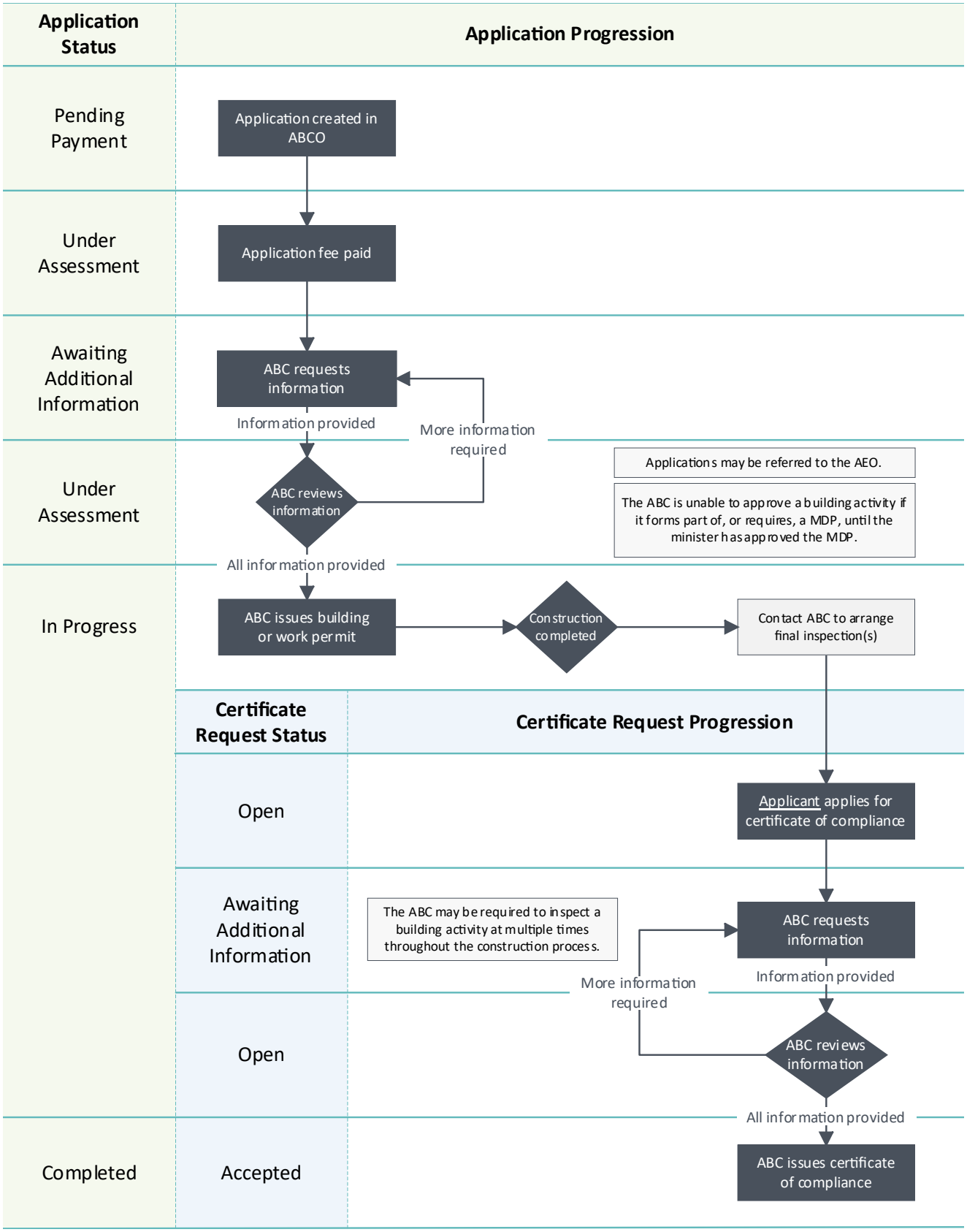
5.13 Each application in ABCO is automatically assigned a status, broadly reflecting its progression through the building approval process.

Table 5 - ABCO application status definitions

ABCO Status	Description
Pending Payment	The application has an unpaid payment, most commonly the application fee. Assessment will not commence or continue until the fee has been paid.
Under Assessment	The ABC is assessing the application.
Awaiting Additional Information	The ABC requires further information to decide on the application. ***Note**: the 28-day statutory clock for approvals stops when additional information is requested and resets once requested information has been provided.*
In Progress	The building activity has been partially or wholly approved, and construction is, or scheduled to be, underway. The building activity may also be partially or conditionally certified. ***Note:** once works are complete, the applicant must notify the ABC and apply for a certificate of compliance (excluding demolition authorisation applications and exempt activities).*
Complete	The application has been approved, certified and closed by the ABC.
Refused	The ABC has refused to approve, certify, authorise or determine the application.

5.14 Figure 2 below depicts, at a high level, the building activity assessment process from application submission through to certification (for building and work permit applications). Each row reflects the relevant assessment status in ABCO.

Figure 2 - Typical application lifecycle for a building activity (simplified)



Requirements for building activity approval

Application fees

5.15 Application assessment does not begin until the application fee has been paid in full. Fees for building activities that require a building approval are listed at Schedule 1 of the regulations and are automatically calculated by ABCO at application lodgement.

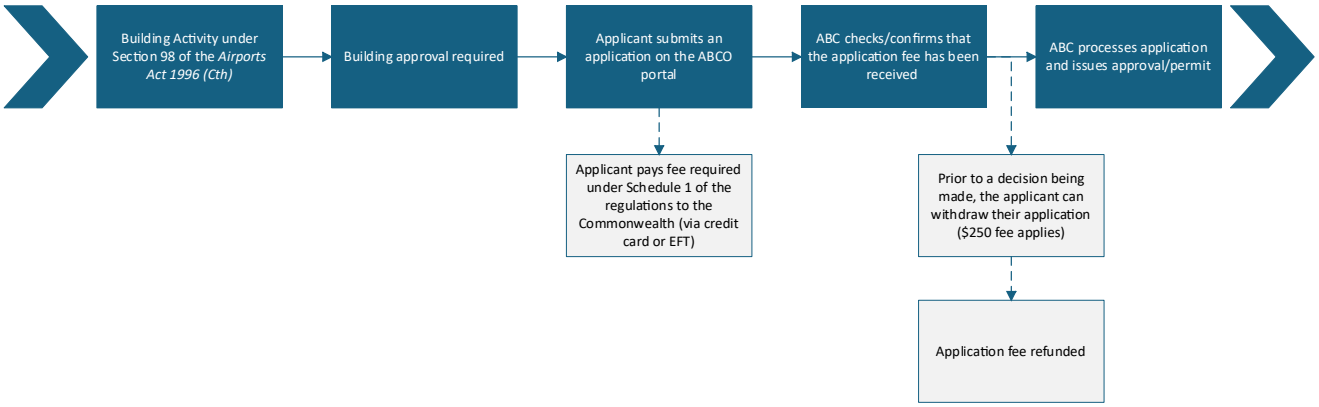
5.16 Fees up to $10,000 may be paid either by credit card or electronic funds transfer (EFT); fees of more than $10,000 may only be paid via EFT.

5.17 For EFT payments, an application progresses to 'under assessment' status only once payment remittance advice has been uploaded against the payment in ABCO. All EFT payments must be reviewed and confirmed by the ABC. To facilitate this process and avoid delays, EFT payments must include the Financial Transaction ID generated by ABCO.

5.18 For credit card payments, an application progresses to 'under assessment' status once payment has been successfully processed. No manual confirmation is required.

5.19 Exemption notification and minor work determination application types do not attract a fee.

Figure 3 - ABC Payment Arrangements



Information to be included

5.20 Section 14 of the regulations lists the information that must be included for the assessment of a building approval application to commence, once payment has been received.

5.21 The type, scale, and complexity of the building activity will dictate the degree of detail and type of supporting information required.

5.22 Section 15 of the regulations lists the information to be included for all applications. The list includes, amongst others:

- if there is a final master plan for the airport—**a statement describing how the building activity is consistent with the plan, including consistency with the environment strategy**
- if the building activity is, or comprises part of, a major airport development, **a statement describing how the activity is consistent with the approved major airport development**
- if the building activity is not, or does not comprise part of, a major airport development—a statement to that effect
- if the building activity is, or comprises part of, a draft major development plan—a statement to that effect, and

- **declaration from the ALC as to whether the application is consistent** with the final master plan for the airport site (if any) and the approved major development plan for the airport site (if any).

5.23 Sections 16, 17 and 18 include the information that must be included for building permit applications, works permit applications and demolition authorisations respectively, which are in addition to requirements at section 15.

5.24 For building permit applications, if approval of the building activity is required under the AEPRs, a statement that the applicant has received, or has applied for, the approval must also be included.

ALC consent

General

5.25 Activities which require a building approval **must be supported by ALC consent** (where the applicant is not the ALC).

5.26 In providing its consent, the ALC warrants that the proposed works are consistent with the airport's final master plan and environment strategy, and with any approved MDP for the project. Through its consent, the ALC is also taken to be certifying that the application meets the content requirements set out in the regulations.

5.27 To support this process and minimise the risk of delays, the ALC, together with the ABC, will encourage and facilitate preliminary discussions with potential applicants, where possible.

5.28 Section 9 Item 1 of the Manual contains suggested wording to be included in ALC consent (made under Division 4 of Part 2 of the regulations).

ALC considerations

5.29 Under section 28 of the regulations, the ALC must review all building approval applications to ensure that a proposed building activity is consistent with:

- the final master plan (incorporating the environment strategy) for the airport (when in place)
- an approved major development plan for a major project or suite of projects (when in place), and
- the ALC's planning objectives for the airport.

5.30 In determining whether to refuse consent because a proposed building activity is inconsistent with the final master plan or an approved major development plan, the airport-lessee company must have regard to the significance of the inconsistency.

5.31 In determining whether to refuse consent because a proposed building activity is inconsistent with the planning objectives for the airport, the ALC must consider the significance of the inconsistency. Attention should be paid to the type, location, shape, size, height, density, design and external appearance of the development that will result from the proposed building activity (subsection 28 (3) of the regulations).

5.32 An ALC must not refuse consent to an application of a type described at subsection 28 (4) of the regulations.

5.33 Additionally, the ALC will consider airport specific issues such as the use of cranes, airport security, and the effect of building work on airport operations and public safety. The ALC will also assess and determine the effect on existing and proposed underground and overhead services such as electricity, gas, fuel, etc.

5.34 To ensure the amenity, operation, safety and security of the airport are not compromised, the ALC may impose conditions prescribing how the building activity is to be carried out (subsection 27 (2) (b) of the regulations). Any such conditions may also be imposed on the approval issued by the ABC if the ABC deems this is necessary.

5.35 If there is a final master plan or approved major development plan for the airport, the ALC must issue a declaration to the effect that the proposal is consistent with the plan(s) (section 29 of the regulations). This requirement also applies to the airport plan for Sydney West Airport.

5.36 If approval is necessary under the APARs, the ALC or the Secretary must grant approval prior to any approval by the ABC (subsection 22 (b) of the regulations).

5.37 Guidelines for obtaining building activity consent are available from the ALC.

ALC decision

5.38 The ALC must give written notice of its decision to the applicant and to the ABC within 28 days of receiving the application. The applicant can agree to a longer period (subsection 27 (4) of the regulations).

5.39 By the end of the 28 days, or any agreed longer period, the ALC must:

- grant consent
- grant consent subject to any condition that it considers appropriate, or
- refuse consent.

5.40 If at the end of 28 days (or agreed longer period), the ALC has not given written notice to the applicant and the ABC, consent is taken to have been refused (subsection 27 (5) of the regulations).

5.41 If consent is refused, or granted subject to one or more conditions, the notice must include the reasons for that decision.

5.42 Once the ALC provides consent for the building activity, a documented list of plans and drawings considered by the ALC as part of the consent process should be provided to the ABC.

Publication of decision

5.43 The regulations require an ALC to publish on their website the following events (relating to a building approval) within 5 business days after the event has occurred (section 31 of the regulations):

- the ALC grants or refuses consent (or is taken to have refused), and
- the ABC approves or refuses a building activity (or is taken to have refused).

Publication of details of applications

5.44 Section 30 of the regulations requires an ALC to publish on its website the following information about each building activity application for a building approval:

- the name of the person making the application
- the day on which the application was made
- a description of the proposed building activity, and
- the location of the building activity.

5.45 This must occur within 5 business days after the application has been submitted to the ABC in ABCO.

ABC assessment

Assessment timeframe

5.46 ABCs have 28 calendar days to decide on an application for an approval. The statutory clock is automatically triggered in ABCO when regulatory requirements are met.

5.47 The most effective way to obtain a prompt decision is to ensure the application, as submitted, meets all the requirements of the regulations. To achieve this, applicants are encouraged to consult with the relevant ABC office before submitting an application, to ensure the application includes all the relevant documents at time of lodgement.

5.48 If a building activity is subject to an MDP under the Act, the ABC's decision-making period does not commence until the relevant MDP has been approved by the Minister.

Assessment considerations

5.49 Applications are assessed for compliance with the regulations. An assessment for a building approval also involves reviewing the proposal for compliance with the relevant provisions of the NCC.

5.50 Under the regulations, applications for a building activity approval may require certificates from suitably qualified experts:

Table 6 - Required certificates for building activities

Required Certificates per Building Activity Type
Building Permit – section 16 of the regulations • all certificates required, under any applicable law, approving arrangements for health and comfort of persons (including ventilation, air conditioning, insulation, sanitation, waste disposal, plumbing and drainage, electrical works, gas installations and lighting), fire resistance, fire protection, and telecommunications services, and • any certificate issued, or report prepared, by an appropriate building expert, approving the structural elements of the building plan.
Works Permit – section 17 of the regulations • all certificates required, under any applicable law, approving arrangements for electrical works, lighting, ventilation, plumbing and drainage, gas services, fire resistance and fire protection, and • any certificate issued, or report prepared, by an appropriate works expert, approving any structural elements of the works.
Demolition Authorisation – section 18 of the regulations • any certificate issued, or report prepared, by an appropriate demolition procedures expert approving the structural elements of the demolition plan.

5.51 Before accepting any plan, specification, certificate or other document signed by a professional engineer or an appropriately qualified person, the ABC must be satisfied that the signatory has qualifications, skills and experience to an acceptable level in the relevant field of work.

5.52 To achieve this, the ABC may require:

- evidence of registration or licence to practice in the relevant discipline in the state or territory
- proof of experience in similar projects, or
- certificates of currency of insurance for professional indemnity and public liability.

5.53 In any case, the ABC will determine an application on its merits and if necessary, further detailed examination or other independent certification may be requested.

5.54 The ABC must also consider public safety, amenity of buildings and services at the airport during the conduct of the proposed activity, appropriateness of proposed linkages with services and facilities outside the airport, and appropriateness of proposed arrangements for clean-up and site rehabilitation (subsections 23 (1) (c), 24 (1) (c), and 25 (1) (c) of the regulations).

5.55 For building and works permit applications, the ABC will ensure that the proposal satisfies the requirements of the relevant Australian or international standards as determined by the ABC.

Request for information

5.56 The ABC may request additional information from the applicant and/or the ALC to satisfy themselves as to any aspect of the application. This is achieved through a request for information (RFI).

5.57 The statutory clock stops when the ABC issues an RFI, and **resets** to 28 days once the relevant information has been provided.

5.58 ABCs must act reasonably in issuing RFIs so as not to unnecessarily or inappropriately delay works.

5.59 The ABC will endeavour to review applications and advise the applicant of any compliance or regulatory issues as soon as reasonably practicable.

Estimated cost

5.60 Under section 15 of the regulations, all applications must include an estimate of the cost of the building activity. When determining the cost of the proposed building activity:

- The following costs **should be** included:
  - site conditions and preliminaries
  - groundworks (or foundations)
  - footings
  - structure
  - cladding
  - roofing
  - services to base building such as plumbing, drainage, electrical, communications, heating and cooling (do not include those services which reticulate from the base building services to each tenancy)
  - base building fit out
  - finishes to internal and external of the base building, and
  - construction contingency.

  All elemental costs above will include materials, labour, freight and all federal, state and local taxes and margins, **including GST**.
- The following costs **should not** be included:
  - design consultant fees
  - finance and legal consultant fees
  - lease costs
  - design contingency
  - tenant specific fit out costs and tenant supplied items
  - application and compliance fees, and
  - site remediation costs as a preliminary for site establishment.

5.61 When estimating the cost of proposed building activities, applicants are encouraged to contact the relevant ABC if further guidance is required.

5.62 In circumstances where the ABC is not satisfied that the applicant has captured the true cost of construction, the ABC may determine an alternative suitable method of calculating the cost of construction, exercising their administrative discretion and subject matter expertise.

5.63 When assessing an application for a building approval, irrespective of the estimated value, ABCs may request that the applicant obtains an approved cost schedule prepared by a suitably qualified or registered person or organisation, such as a construction cost engineer consultant or quantity surveyor.

5.64 Additionally, when assessing an application, the ABC may consider whether there may be relevant State and Territory laws, building code or appropriate standards which may impact the estimated cost of a building activity provided by the applicant.

5.65 Please note, the estimated cost of the building activity **differs** from the estimated cost of a major airport development under section 89 of the Act, which is calculated according to the Airports (Major Airport Developments) Determination 2021.

Consistency with master plans and major development plans

5.66 Section 101 of the Act states that:

- if a final master plan is in force for an airport, the approval must not be granted unless it is consistent with the plan (subsection 101 (2)), and
- if the building activity is an element of a major airport development, the approval must not be granted unless the activity is consistent with an approved major development plan (subsection 101 (3)).

5.67 In assessing an application for a building approval, ABCs must adhere to the requirements of the Act and ensure that consistency with master plans and approved major development plans is achieved and maintained.

5.68 In the event that the ABC is of the view that an application is not consistent with a final master plan or an approved major development plan (including any conditions), the ABC should advise the applicant of the issue, and if this issue cannot be resolved to the satisfaction of the ABC, the ABC must proceed to **refuse** the application.

5.69 In the event that the ABC is not satisfied that an application for a building approval is not an element of a major airport development and if an approved major development plan is not in place, the ABC should advise the applicant of the issue, and if the ABC remains unsatisfied, they must **refuse** the application.

5.70 In both circumstances, noting the consequences that refusing an application for non-compliance with section 101 of the Act would have, the ABC **must** liaise with the department as soon as possible to ensure that all required steps have been followed **prior to** making a decision.

Referral to AEO

Referral of building activity applications to the AEO

5.71 The ABC may, at their discretion, refer an application to the AEO for advice on matters the ABC must have regard to under the building control regulations, which are primarily:

- confirming, where the ABC cannot determine unilaterally, that the building activity is consistent with the airport's final master plan and, by extension, the airport environment strategy
- confirming the proposed building activity does not give rise to environmental risks that may impact public safety during the conduct of the building activity
- confirming the proposed arrangements for clean-up and site rehabilitation of the building activity are sufficient, or
- confirming if, in the AEO's opinion, the building activity is a development that affects an area identified as environmentally significant in the airport environment strategy, and consequently triggering the requirement for a major development plan.

5.72 When deciding whether to engage with an AEO, and to ensure alignment with legislative requirements, ABCs must use the AEO Referral Toolkit found at Section 9 Item 2 of the Manual.

5.73 To initiate a request for AEO advice, ABCs must complete the AEO Referral Form found within the toolkit (and available on request from the department). ABCs are expected to specify which provisions of the regulations or Act their request for advice relates to.

5.74 The AEO is expected to respond to the ABC using the AEO Referral Form, being mindful of the due date for response noted on the Referral Form.

5.75 Exchanges between ABCs and AEOs must occur via ABCO.

AEO engagement and responsibility in the ABC regulatory scheme

5.76 The AEO's engagement within the building application process is generally limited to:

- providing advice to the ABC on environmental matters, as requested by the ABC, in alignment with the language, scope, and purpose of the ABCRs, and
- recommending the ABC to impose conditions on building approvals and certificates which aim to address environmental concerns. The recommendations must be tied to matters the ABC is required to consider under the regulations.

5.77 The AEO must ensure that their advice is provided within the ABC's statutory decision-making timeframe (28 days for an approval, and 14 days for a certificate). Engagement between ABCs and AEOs does not stop the statutory clock.

5.78 The ABC remains the sole decision-maker on applications for approvals and certificates under the ABCRs and is not obliged to accept any recommendations made by the AEO or act in accordance with such advice.

5.79 As the decision-maker, the ABC is responsible for enforcing compliance with conditions imposed on approvals and certificates, including where those conditions extend to environmental matters. The ABC may seek assistance from the AEO in monitoring conditions, where appropriate to do so.

5.80 An approval issued under the ABCRs does not infer that an applicant is exempted from other regulatory duties, such as under the AEPRs and the Act. Where the AEO determines that unrelated environmental deficiencies exist in an application, it is open to the AEO to address this through their regulatory mechanisms under the AEPRs.

ABC decision

5.81 The ABC must give written notice of their decision to the applicant (via ABCO) and to the ALC within the 28-day statutory decision timeframe. If, at the end of 28 days, the ABC has not approved the building activity, the ABC is taken to have refused to approve the building activity.

5.82 Before the end of the 28-day period, the ABC must:

- approve the building activity
- approve the building activity subject to any condition the ABC deems appropriate
- undertake to the applicant that the building activity will be approved if the applicant complies with a direction in the undertaking, or
- refuse to approve the building activity.

5.83 If the ABC approves the building activity, the approval must specify any applicable inspection stages.

5.84 If the application is refused, or is granted approval subject to a condition, the ABC's written notice must set out the reasons for that decision.

5.85 ABCs are expected to list any conditions in the appropriate field when preparing their approval. Conditions should not be placed in the advisory notes section of the approval (or certificate).

Publication of decision

5.86 Section 31 of the regulations requires the ALC to publish the ABC's decision on a building activity (in addition to other events) on its website within 5 business days of the decision being made.

5.87 The details published must include the decision itself (to the extent of whether or not the building activity was approved), details of the event and the date on which the event occurred.

Variations, withdrawals and refunds

5.88 At any time before the ABC has made a decision on an application for a building approval, the applicant may vary or withdraw the application, subject to a $250 fee (section 20 of the regulations).

5.89 The airport building controller must be notified of the variation or withdrawal through ABCO.

Varying an application

5.90 A variation to an application must not be accepted where it significantly alters the character, size, or impact of the building activity or resulting development.

5.91 If the variation results in an increase to the estimated cost of works, such that the application enters an increased fee bracket (according to Schedule 1 of the regulations), ABCO will issue a payment request to capture the difference (subsection 20 (3) (b) of the regulations).

Withdrawing or cancelling an application

5.92 An application may be retracted at no cost if the application fee has not yet been paid. If an application is withdrawn (before a decision is made), the Commonwealth must refund the fee originally paid for the application (subject to a $250 withdrawal fee).

Refunds

5.93 Requests for refunds are facilitated by ABCO, and will be automatically referred to the department for review and processing.

5.94 Refunds will be processed if the following occurs:

- Application withdrawal: An application is withdrawn under subsection 20 (1) (b) of the regulations, triggering the refund of the application fee originally paid (incurring a $250 withdrawal fee), or
- Invalid application: An application is invalidated where it was submitted in error, at the wrong airport, it is for the incorrect application type, or is a duplicate application.
- Overpayment: The applicant has paid more than required under the regulations. This may occur due to an overpayment, administrative error, incorrect estimated value calculation, or any other situation where the department has received more money than legislatively required.

5.95 Table 7 outlines which actions in ABCO cause a refund to occur, whether the $250 fee is required, and any preconditions that must be met for the refund to proceed.

Table 7 - Refunds

Circumstance	Preconditions
Application withdrawn by applicant (prior to ABC decision) ABCO will issue a payment request for $250, and once paid, will process a refund for the application fee originally paid.	• No ABC decision has been made. • The application fee payment has been confirmed by the ABC. • The application is a Building and/or Works Permit, Demolition Authorisation, or Certificate of Compliance.
Application invalidated by ABC ABCO will process a refund for the application fee originally paid.	• No ABC decision has been made. • The application fee payment has been confirmed by the ABC. • The application is a Building and/or Works Permit, Demolition Authorisation, or Certificate of Compliance.
Overpayment registered by ABC ABCO will process a refund for the amount overpaid.	• The application fee payment has been confirmed by the ABC. • The ABC agrees that an overpayment occurred and registers this in ABCO.
Reduced estimated value confirmed by ABC ABCO will issue a payment request for $250, and once paid, will process a refund for the difference in fees payable under the regulations (if applicable).	• No ABC decision has been made. • The application fee payment has been confirmed by the ABC. • The application is a Building and/or Works Permit.

Exempt building activities

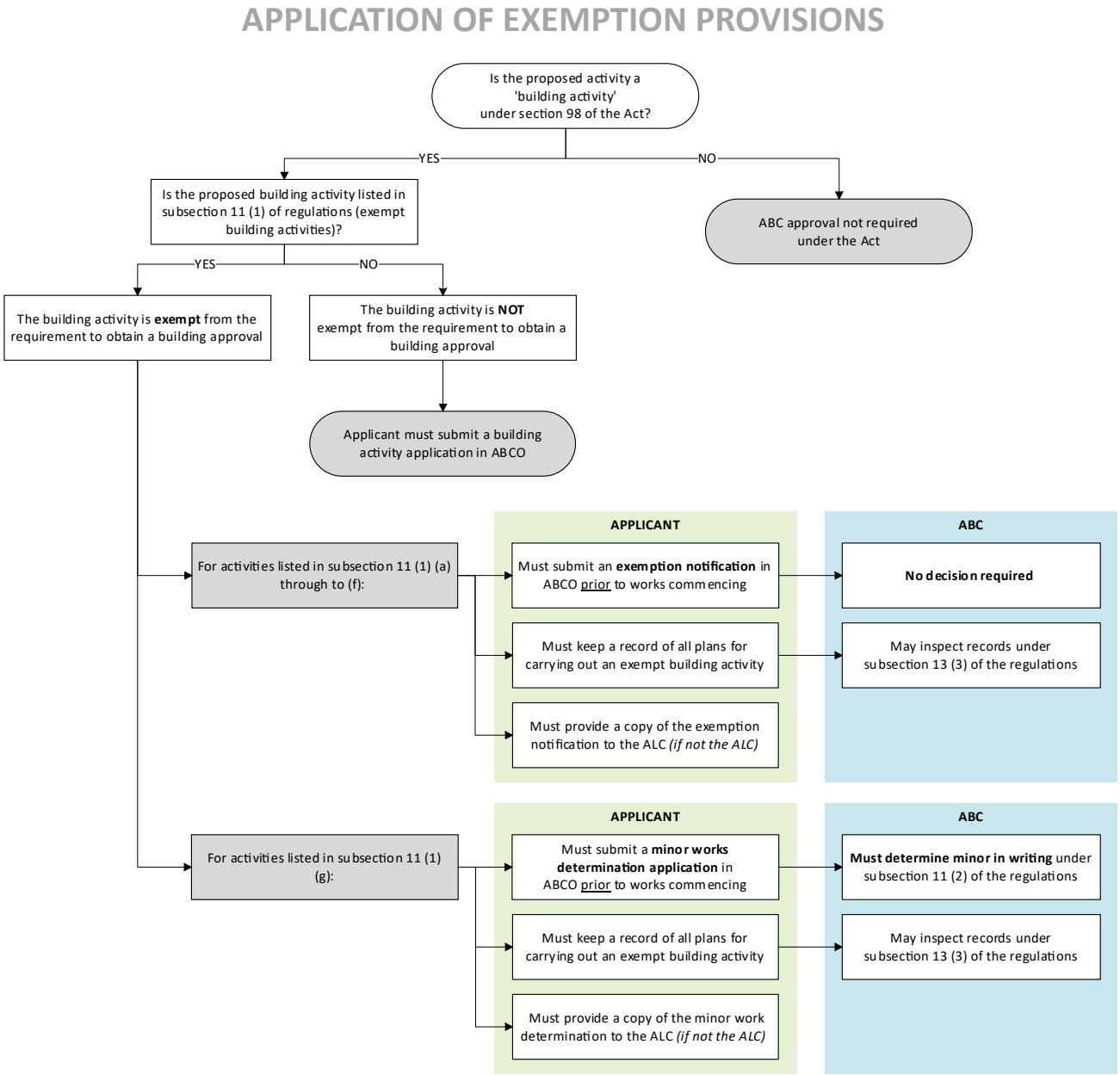
5.96 Division 2 of Part 2 of the regulations provides that certain building activities (as listed at section 98 of the Act) are exempt from the requirement to receive approval from the ABC prior to carrying out the building activity. Exempt activities listed in the regulations do not extend to activities beyond the building activities outlined at section 98 of the Act.

5.97 Under section 11 of the regulations:

- ABCs do not have a decision-making role for exemption notifications made under section 11 (1) (a) through to (f).
- ABCs are required to determine in writing that building activities described at section 11 (1) (g) are exempt from the requirement to obtain a building approval.

5.98 Generally, exempt building activities should **not** have any fire safety and egress related concerns and should **not** require assessment from an ABC for compliance with the NCC (or other relevant standards), except for emergency repairs (which are subject to certification following completion).

Figure 4 – Exempt activities workflow



Exemption notification

5.99 Applicants wishing to undertake building activities (refer to section 98 of the Act) of a kind specified in paragraphs 11 (1) (a) through to (f) of the regulations are **required to notify the ABC** by submitting an exemption notification in ABCO. If the applicant is not the ALC for the airport site, the applicant **must also provide a copy of the notice to the ALC**.

5.100 Notifications must be made prior to works being undertaken.

5.101 The self-assessment workflows provided below may assist applicants in identifying whether a proposed building activity would be considered exempt under section 11 (1) (a) through to (f) of the regulations. This should be read alongside the legislation. [6]

5.102 Activities not exempt under section 11 (1) (a) through to (f) of the regulations may still be determined exempt under section 11 (2). Refer to the minor works determination section of the manual.

5.103 Applicants must assure themselves that works being applied for, including the way in which the works will be undertaken/completed and any other wider considerations, are in accordance with all applicable legislation and guidance. This includes adherence to section 99 of the Act, and where applicable, the AEPRs and any departmental environmental guidelines.

Self-assessment workflows - section 11 (1) (a) through to (f) of the regulations

Table 8 – Section 11 (1) (a) – erection, or installation, of a manufactured home or moveable dwelling

Step	Self-Assessment / Decision Point	If YES	If NO
1	Is the activity a building activity under section 98 of the Act?	Continue to step 2	ABC process not applicable
2	Is the building activity the erection, or installation, of a manufactured home or moveable dwelling, or a similar construction?	Continue to step 3	Not exempt under subsection 11 (1) (a)
3	Is the activity consistent with the airport's final master plan, and any applicable major development plan (section 99 of the Act)?	Continue to outcome	Activity not permitted to be carried out
OUTCOME: The building activity is exempt. An exemption notification must be submitted in ABCO, and a copy of the notification provided to the ALC, prior to the commencement of works.			

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[6] Each location carries nuances that influence whether an activity would be considered exempt (e.g. cyclone considerations in wind regions C & D per the NCC).

Table 9 – Section 11 (1) (b) – erection of a class 10a building with a floorspace of 10 square metres or less

Steps	Self-Assessment / Decision Point	If YES	If NO
1	Is the activity a building activity under section 98 of the Act?	Continue to step 2	ABC process not applicable
2	Is the building activity the erection of a class 10a building?	Continue to step 3	Not exempt under subsection 11 (1) (b)
3	Is the floorspace of the building 10 square metres or less?	Continue to step 4	Not exempt under subsection 11 (1) (b)
4	Is the activity consistent with the airport's final master plan, and any applicable major development plan (section 99 of the Act)?	Continue to Outcome	Activity not permitted to be carried out
OUTCOME: The building activity is exempt. An exemption notification must be submitted in ABCO, and a copy of the notification provided to the ALC, prior to the commencement of works.			

Table 10 – Section 11 (1) (c) - erection of a class 10b building

Steps	Self-Assessment / Decision Point	If YES	If NO
1	Is the activity a building activity under section 98 of the Act?	Continue to step 2	ABC process not applicable
2	Is the building activity the erection of a class 10b building?	Continue to step 3	Not exempt under subsection 11 (1) (c)

3	Is the building one of the following kinds:
	• A fence more than 2 metres high.
	• A mast, pole, antenna or similar structure erected on a building, that is more than 3 metres higher than its highest point of attachment to the building.
	• A mast, pole, antenna or similar structure not erected on a building and is more than 8 metres high.
	• A wall (including a retaining wall) more than 1 metre high.
	• A sign that is **not**
	  ○ at its highest point, less than 8 metres above ground level, **OR**
	  ○ erected by an airport-lessee company for an advisory purpose.
		Not exempt under subsection 11 (1) (c)	Continue to step 4

4	Is the activity consistent with the airport's final master plan, and any applicable major development plan (section 99 of the Act)?	Continue to outcome	Activity not permitted to be carried out
OUTCOME: The building activity is exempt. An exemption notification must be submitted in ABCO, and a copy of the notification provided to the ALC, prior to the commencement of works.			
NOTE: Refer to paragraph 5.106 for further information on signage.			

Table 11 – Section 11 (1) (d) & (e) - repair or alteration of an existing building for appropriate maintenance, cosmetic changes, or emergency repairs

Step	Self-Assessment / Decision Point	If YES	If NO
1	Is the activity a building activity under section 98 of the Act?	Continue to step 2	ABC process not applicable
2	Is the building activity the repair or alteration of an existing building?	Continue to step 3	Not exempt under subsection 11 (1) (d/e)
3	Does the activity **adversely affect any aspect of the safety, or structural soundness** of the building?	Not exempt under subsection 11 (1) (d/e)	Continue to step 4
4	Does the activity involve the underpinning, or replacement, of the footings?	Not exempt under subsection 11 (1) (d/e)	Continue to step 5
5	Is the activity in the nature of **appropriate maintenance**, **cosmetic changes**, or **fit out** of the building? OR Is the **activity essential because of an emergency** relating to the safety of persons?	Continue to step 6	Not exempt under subsection 11 (1) (d/e)
6	Is the activity consistent with the airport's final master plan, and any applicable major development plan (section 99 of the Act)?	Continue to outcome	Activity not permitted to be carried out
OUTCOME: The building activity is exempt. An exemption notification must be submitted in ABCO, and a copy of the notification provided to the ALC, prior to the commencement of works.			
NOTE: Refer to paragraphs 5.104, 5.107, and 5.108 for further information on safety and structural soundness, emergency works, fit out and appropriate maintenance.			

Table 12 – Section 11 (1) (f) – the minor repair or alteration of existing works

Step	Self-Assessment / Decision Point	If YES	If NO
1	Is the activity a building activity under section 98 of the Act?	Continue to step 2	ABC process not applicable
2	Is the building activity the repair or alteration of existing works?	Continue to step 3	Not exempt under subsection 11 (1) (f)
3	Does the activity **adversely affect the structural soundness** of the works?	Not exempt under subsection 11 (1) (f)	Continue to step 4
4	Is the activity **appropriate maintenance**?	Continue to step 5	Not exempt under subsection 11 (1) (f)
5	Is the activity consistent with the airport's final master plan, and any applicable major development plan?	Continue to step 6	Activity not permitted to be carried out
OUTCOME: The building activity is exempt. An exemption notification must be submitted in ABCO, and a copy of the notification provided to the ALC, prior to the commencement of works.			
NOTE: Refer to paragraphs 5.104, and 5.108 for further information on structural soundness, and appropriate maintenance.			

Interpretation of language used in section 11 of the regulations

5.104 Applicants undertaking exempt activities should achieve compliance with relevant deem to satisfy provisions of the NCC to reduce the risk of adversely affecting the safety or structure of a building.

5.105 Common examples of activities which may unknowingly impact safety or structural soundness are:

- re-wiring for data or electrical where the cables go through a fire rated wall without being adequately fire-stopped
- running new telecommunications or data cables through a fire isolated exit (that is not serving the exit)
- installing acoustic ceiling treatment or carpet with non-compliant fire hazard properties
- warehouse racking, commonly impacting structural loading, exit travel distances, hydrant and hose reel coverage, and exit sign visibility
- modification of the location of walls and/or doors within a building, affecting egress, access, and fire services coverage
- installing signage that is made from combustible materials (such as PE and FR type aluminium composite panels)
- fit outs that require modification to the building's active fire safety systems, or
- fit outs or alterations occurring in a building that is subject to a fire engineered performance solution.

5.106 Signage attached to a building is considered as an alteration to that building and should instead be considered under subsection 11 (1) (d) or subsection 11 (2) of the regulations.

5.107 Emergency repairs and alterations must clearly demonstrate there is a real emergency posing imminent risk to safety and must not in itself pose risk to safety or adversely impact structural soundness. Once an emergency repair is carried out, a certificate attesting to the structural safety of the building as repaired or altered must be provided to the ABC.

5.108 Appropriate Maintenance should be limited to broken or damaged components that need to be fixed, with the scope limited to the extent of the damaged part. Statutory maintenance is generally also considered in the context of subsections 11 (1) (d) and (f).

Minor works determinations

5.109 Applicants wishing to undertake building activities that meet the criteria of subsection 11 (2) of the regulations are required to submit a 'minor works determination' application in ABCO and must not undertake the activity until the ABC has determined in writing that the proposed works are exempt from requiring a building approval.

5.110 In practice, where assessment with the NCC is required, especially relating to structural soundness and fire safety, the works are likely not minor. Paragraph 5.101 outlines common activities which may unknowingly impact safety or structural soundness, which may inform whether an activity is eligible for consideration under section 11 (1) (g).

Self-assessment workflow - minor work determination

Table 13 – Section 11 (1) (g) and section 11 (2) – minor work determination

Step	Self-Assessment / Decision Point	If YES	If NO
1	Is the activity a building activity under section 98 of the Act?	Continue to step 2	ABC process not applicable
2	Is the building activity small-scale and of short construction duration?	Continue to step 3	Unable to be determined as minor works
3	Will the activity involve more than a minor interference with the airport site?	Unable to be determined as minor works	Continue to step 4
4	Will the activity create a **danger of injury** to a person using the airport?	Unable to be determined as minor works	Continue to step 5
5	Is the activity consistent with the airport's final master plan, and any applicable major development plan?	Continue to outcome	Activity not permitted to be carried out
OUTCOME: Building activity to be submitted as a 'minor works determination' application in ABCO. The ABC to determine if exempt or not. If the ABC determines it is exempt under section 11 (1) (g) of the regulations, a copy of that determination must be provided to the ALC prior to commencement of works.			
NOTE: Refer to paragraph 5.104 for further information on safety and structural soundness.			

Recordkeeping

5.111 Section 13 of the regulations requires the person carrying out the exempt work to maintain a record of all plans and details of the building activity undertaken for a period of 1 year following completion of the activity.

5.112 Records kept under section 13 of the regulations should include the necessary information to evidence the activity was exempt and may be inspected by the ABC. The following may be necessary, subject to the type of activity undertaken:

- clear description of the activity, including clear indication (ideally in plan form) of its location
- evidence the activity does not adversely affect any aspect of safety or structural soundness of the building or works (especially where changes may impact fire safety)
- evidence the activity does not involve underpinning of or replacement of footings
- evidence the activity was necessary due to an emergency, and
- evidence of the materials used to undertake the building activity.

Land clearing

5.113 Under section 98 of the Act, *undertaking land clearing* is a building activity.

5.114 For the purposes of section 98 (1) (f), and within the context of Division 5 of Part 5 of the Act, land clearing should generally be considered as a **substantial** removal of *things* from the land such that afterwards, the land has become 'cleared land' or is readied for some other intended usage.

5.115 Routine vegetation management works such as mowing grass, trimming vegetation, or removal of some trees from an area (if as to still leave other trees or shrubs untouched on the land) is not considered land clearing.

5.116 Where there is uncertainty as to whether an activity should be considered land clearing under section 98 (1) (f) and within the context of Division 5 of Part 5 of the Act, the matter should be raised with the ABC prior to works commencing.

5.117 Vegetation management not captured under section 98 (1) (f) of the Act may still be subject to regulatory oversight under airport environmental management frameworks and other applicable legislation.

5.118 Compliance with the airport building control regime does not remove the need to consider obligations under the EPBC Act. If the proposed clearing forms part of an action likely to have a significant impact on EPBC-protected matters, referral and assessment/approval processes under the EPBC Act may be required irrespective of any airport building control approval or exemption status.

Staged approvals

5.119 It is recognised that in many instances it is not possible for an applicant to provide, at the time of submitting a building activity application, all the required documentation for all elements of a development. This is especially prevalent with modern 'design and construct' building practices. For this reason, and to facilitate situations where one element depends upon the completion of another element, ABCO and the assessment process have been set up to permit staged approvals.

5.120 ABCs and applicants are both able to recommend a staged approach however stages cannot be split without the applicant's consent.

Permit to Commence Works (PERCOW)

5.121 ALCs may require the applicant to submit to them a request for a Permit to Commence Works (PERCOW) or similar before/concurrently/after an approval has been issued under the regulations.

5.122 At a high level, a PERCOW is a non-regulatory approval that effectively acknowledges the ABC approval, including any conditions, and allows the building activity to commence on-site.

5.123 As a non-regulatory approval issued by the ALC, the PERCOW (or similar) process is managed solely by the ALC. Applicants are encouraged to engage with the ALC as early as possible to avoid any project delays.

6. Construction, Certification and Monitoring

During construction

6.01 Where an ABC has approved an activity subject to conditions, the works must be undertaken in accordance with those conditions.

6.02 All building activities must be undertaken by appropriately qualified professionals, and the use of materials must be in accordance with the appropriate building standards.

6.03 Subsection 32 (1) (m) of the regulations empowers the ABC to request the applicant provide as-built detailed drawings of the resulting construction.

Duration of approvals

6.04 Building approvals issued by ABCs are valid for a period of 3 years (5 years for certain works at Sydney West Airport) from the date on which the approval was issued, unless the approval specifies a shorter period.

6.05 An applicant may apply to the ABC for an extension of 1 year, provided the application is made prior to the original approval ceasing to be in force. An applicant may also apply for a second extension of 1 year, provided an application is made prior to the end of the first extension period. No more than 2 extensions of time may be granted for an approval (section 26 of the regulations).

6.06 Subsection 32 lists the conditions that are imposed on a building approval, including 32 (1) (o) which states that the building activity must be **completed** before the building approval expires.

6.07 Under 32 (3), ABC may determine, in writing, that a condition mentioned in subsection (1) is not imposed on the building approval.

Revocation of approvals

6.08 An ABC may revoke an approval under section 37 of the regulations if:

- two years after the approval is issued, works have not commenced and the ABC is of the opinion the works will not commence before the approval expires
- works have ceased and the ABC is of the opinion works are unlikely to resume
- the works are not, or can no longer be, carried out in accordance with the approval (including any conditions imposed by the ABC), any of the plans, specifications or standards the ABC relied upon when issuing the approval, or any applicable Australian standard
- the ABC is satisfied that the application, or a document or statement supplied in support of the application, was false or misleading in a material particular
- the person carrying out the activity fails to comply with a condition of the approval, or
- the activity has not ceased or has recommenced without the written consent of the ABC, in contravention of and approval condition or a remedial direction (section 103 of the Act).

6.09 Approvals may also be revoked on request of the person to whom the approval was issued.

Inspections

6.10 A building approval may (and will, in most cases) specify one or more inspections must occur during the period of the works. Where the application includes staged approvals, inspections will often align with those stages.

6.11 The ABC must be notified at least 7 days prior to the expected date on which an inspection stage will be achieved.

6.12 Paragraphs 32 (1) (g) through to (j) of the regulations outline what that an applicant must do and provide before, during and after each inspection stage.

Inspections by private certifiers

6.13 There may be times where a private certifier is required to assess a building or works to ensure compliance with a relevant technical standard. A private certifier is a person that certifies an aspect of the building or works, often carrying specialised or technical qualifications (e.g. structural, fire, civil, electrical, builder, etc).

6.14 Mandatory inspections at critical stages of construction are often required to comply with relevant legislation, and the general law relating to standards of safety.

6.15 The ABC must ensure, as far as practicable, that a private certifier inspects the necessary and relevant areas of a building activity. This is especially prevalent where, if a failure would occur, a risk to health, safety, or property arises.

6.16 Inspections by private certifiers do not relieve the person conducting the building activity of any legal responsibility. Paragraphs 32 (1) (e) and (f) of the regulations require the person carrying out the building activity to be appropriately qualified and licensed. ABCs should consider the expertise and qualifications of the person or corporation providing a certificate in consideration of the state-based licensing regimes that might apply.

6.17 The NCC stipulates the extent of documentary evidence necessary to support a claim that a particular material, design or form of construction is compliant. The responsibility for accepting or rejecting this evidence lies with the ABC, who has the discretion to require further information.

6.18 Each ALC may have preferences, conditions and practices for certain types of materials to be used for works and construction. However, these still need to meet the necessary regulatory requirements.

6.19 When issuing a certificate of compliance, the ABC may rely on a relevant certificate issued or report prepared by a building expert or regulatory authority certifying designs, inspections, materials and construction methods, as evidence of suitability (subsection 50 (3) of the regulations).

Certificate of compliance

General

6.20 Upon completion of the works or, where a staged approval process is followed, a stage of the works, the applicant must apply via ABCO for a certificate of compliance.

6.21 A certificate of compliance evidences the ABC's determination that, having completed an inspection of the finished works and considered that inspection in the context of the application, design drawings and certifications, ABC's approval and relevant legislation and standards, the building or works are satisfactory to be occupied or used.

6.22 A certificate of compliance for occupancy will be issued for buildings (including fit outs of existing buildings).

6.23 A certificate of compliance for use will be issued for works that do not result in the construction of a building.

ABC assessment and decision

6.24 In response to an application for a certificate of compliance, the ABC can:

- issue the certificate of compliance
- issue the certificate of compliance subject to any condition the ABC determines to be appropriate, or
- refuse to issue the certificate of compliance.

6.25 An ABC must not issue a certificate of compliance unless they are satisfied the building activity was carried out and completed satisfactorily and in accordance with the approved documentation, specifications and any conditions of approval contained in the building or works permit.

6.26 The following are considered when assessing an application for a certificate of compliance:

- all necessary inspections were completed and satisfactory (and/or unsatisfactory outcomes resolved)
- all required certificates have been provided to the ABC
- all personnel who conducted or certified work are evidenced as appropriately qualified, and
- all necessary provisions for health, safety and comfort of occupants or users are in place.

6.27 The ABC may request, by written notice through ABCO, further information from the applicant if such information is required to make a decision.

6.28 The ABC is taken to have refused to issue a certificate if the ABC has not given the applicant notice of the decision within 14 days after the later of the following:

- the application is received, or
- if further information is requested (and the request is not withdrawn), such information is received.

6.29 Where a staged approval process has been undertaken, and certificates of compliance issued for individual stages or components of a building or works, section 60 of the regulations provides the ABC the ability to combine multiple previously issued certificates into one to one 'final certificate of compliance'.

6.30 ABCs may issue a certificate of compliance subject to reasonable conditions. Conditions may relate to occupancy or use limitations, maintenance requirements, performance-based solution requirements, or other matters the ABC considers appropriate to include on the certificate.

6.31 Where a conditional certificate of compliance has been issued, the ABC will follow up with the ALC and applicant to satisfactorily address those issues with a view to ultimately issue an unconditional certificate of compliance.

6.32 If an application for a certificate of compliance is in relation to a building activity not previously approved by the ABC, the ABC will estimate the amount of hours required to investigate whether the building or works are to be treated as complying with legislation and decide on that application, and charge a fee calculated by multiplying the hours by $125 (section 46 (3) of the regulations).

Varying a certificate of compliance

6.33 A person may apply to the ABC for a variation to their certificate of compliance. When deciding whether to vary the certificate, the ABC must take into account the same matters considered for the initial certificate of compliance (section 56 of the regulations).

6.34 The ABC may vary a certificate on their own accord if they consider it is necessary and in the public interest to ensure a building or works is safe for occupancy or use.

6.35 In preparing an application for a certificate of compliance, the applicant will need to obtain all relevant certificates and documents specified in the building approval and as deemed necessary by the ABC.

6.36 To streamline this process, a pre-final site inspection with the ABC is encouraged, to highlight any outstanding matters required to be resolved prior to the nominated completion date.

Validity of certificates of compliance

6.37 Certificates of compliance are valid until the building or works cease to exist or undergo alterations that require the issue of a replacement certificate of compliance, unless the certificate is revoked.

6.38 A certificate of compliance is taken to be revoked if another certificate of compliance is issued for the same location of the building or works.

6.39 Certificates of compliance are attached to the building, works or land, not to the person to whom the certificate is issued. This means all relevant certificates of compliance remain valid and in force even where building, works or land have been sold, re-leased or otherwise transferred.

Duties of the certificate holder

6.40 A certificate of compliance for occupancy imposes the following duties on the certificate holder:

- the building must only be used for a purpose that is consistent with the classification of the building under the NCC
- the building must be maintained in a condition that is consistent with its classification, and
- the essential services associated with the building must be maintained in accordance with the relevant requirements of the NCC and relevant standards.

6.41 A certificate of compliance for use imposes the following duties on the certificate holder:

- the works must not be used for a purpose which is inconsistent with the standards to which they were constructed, and
- the works must be maintained in a condition that is consistent with their use.

Ongoing monitoring

6.42 ABCs are responsible for monitoring compliance with conditions included in building approvals and certificates of compliance, to ensure no unauthorised alterations or additions are made to buildings on airport. ABCs are also tasked with ensuring that buildings, structures, etc. are used in accordance with their respective certificate of compliance and appropriate building standards.

6.43 There are provisions in the Act and regulations for ABCs to take compliance and enforcement actions where a building or works are occupied or used in a way which is inconsistent with a certificate of compliance, or a condition imposed on a certificate of compliance. These are covered in chapter 7 of this Manual.

6.44 Whilst not directly responsible for monitoring compliance with approval, certificates and associated conditions, AEOs should support the ABCs in monitoring compliance with any environmental conditions imposed on approvals and certificates, as the relevant subject matter experts.

7. Appeals, Enforcement and Penalties

Review by Administrative Review Tribunal

7.01 A person who disagrees with a decision made under the regulations should first seek to resolve the matter informally with the decision-maker.

7.02 However, where that is not possible, section 80 of the regulations provides that certain decisions of an ABC or ALC are subject to review by the Administrative Review Tribunal (ART), upon application by a person listed in that section.

7.03 The decisions of an ABC or ALC which may be appealed to the ART can be broadly categorised as those involving ALC consent, granting permits, issuing certificates of compliance, and dealing with infringement notices.

7.04 Upon receipt of a valid application accompanied by the appropriate filing fee, the ART will forward a request to the relevant decision-maker.

7.05 Requests received directly by an ABC are to be referred immediately to the department.

7.06 Following appropriate hearings, the ART will make a decision on the application and either:

- affirm the decision under review
- vary the decision under review
- set aside the decision under review
- substitute an alternative decision, or
- refer a decision back to the original decision-maker for reconsideration.

7.07 Decisions of the ART, while themselves subject to appeal, are binding on the relevant decision-makers.

7.08 It is critical that ABCs and ALCs retain appropriate documentation relating to their decisions and keep records regarding the submission of all relevant paperwork when administering the regulations.

7.09 ABCs and ALCs are also expected to consider the likelihood of a matter progressing to the ART and whether any compliance related decision would withstand independent legal scrutiny.

Monitoring Powers

7.10 ABCs are authorised under Part 18 of the Act to exercise monitoring powers for the purpose of ascertaining if Part 5 of the Act has been or is being complied with. Monitoring powers are explained at sections 237 and 238 of the Act.

7.11 ABCs may, if reasonably necessary, enter any airport premise (at any time) to monitor compliance with Part 5 of the Act. Entry for this purpose is only permitted where:

- the ABC has in their possession a valid identity card (made under part 18 of the Act), and
- the occupier of the airport premises has consented to the ABC entering the premises, or
- the ABC has a valid warrant to enter the premises.

7.12 Before obtaining the consent of a person for the purposes of entering an airport premises, the ABC must inform the person that they may refuse to give consent.

Compliance Action Process

7.13 Figure 5 demonstrates at a high level the process ABCs should take when alerted to a potential non-compliance.

Figure 5 - Compliance Process



Enforcement

7.14 The options available to ABCs to manage instances of non-compliance are set out in the Act and the regulations. Broadly, these are captured in Table 14 below.

Table 14 - Enforcement options available to ABCs

Enforcement option	Details
Remedial direction (s 103 of the Act)	A direction to stop work, or to carry out remedial works, or to demolish, dismantle or remove the works where works have occurred (or are occurring) without an approval or in contravention of a condition imposed on an approval.
Remedial direction (s 109 of the Act)	A direction to cease to occupy or use, to carry out remedial works, or to demolish, dismantle or remove the works, where a building, structure or works is being occupied or used without a certificate of compliance or in contravention of a condition imposed on a certificate of compliance.

Enforcement option	Details
Infringement notice (pt 5 of the regulations)	An infringement notice, with an associated monetary penalty, issued in relation to any of the offence provisions contained in part 5 of the Act.

7.15 The department's expectation is that ABCs will attempt to resolve non-compliances through genuine good-faith discussions and, if necessary, issue remedial directions before resorting to the issue of an infringement notice. ABCs are required to inform or escalate to the department based on the reasonably expected consequences of a non-compliance event.

7.16 The selection of an appropriate enforcement option, where necessary, may be informed by the completion of a risk assessment. Prior to taking any enforcement action, the ABC must gather and record all available evidence pertaining to the matter.

7.17 ABCs should note that any matter for which the ABC issues an infringement notice may be referred to be dealt with by a court. Evidence prepared by the ABC in taking enforcement action, as described at Section 4 of the Manual, must be prepared as though the matter could be referred to a court.

Remedial directions

7.18 When issuing a remedial direction under either section 103 or 109 of the Act, the ABC may require the person to take any of the following actions:

Table 15 - Remedial directions

Type of remedial direction	Application
Direction to stop work (s 103 of the Act)	Requires that no further works be undertaken on the development (or the relevant section of the development) in question until the ABC has completed their investigation of the matter and has either issued a permit or is satisfied the conditions of the permit are being met.
Direction to cease to occupy or use (s 109 of the Act)	Requires that the building, structure or works not be occupied or used until the ABC has completed their investigation of the matter and has either issued a certificate of compliance or is satisfied the relevant conditions are being met.
Direction to carry out remedial works (s 103 or 109 of the Act)	Requires that the person carrying out the non-compliant building activity does a particular thing, as set out in the direction, to bring the works into compliance with the permit/certificate and any conditions.
Direction to demolish, dismantle or remove the works (s 103 or 109 of the Act)	Requires that the building, structure or works which result from the non-compliant works be removed. This may require, for example, the demolition of a building or structure, or the removal of utility cables/pipes/conduits.

7.19 Remedial directions must be issued by the ABC in ABCO if possible, or by email if no application exists. Once issued, ABCs must monitor the implementation of actions or solutions identified in the remedial direction to ensure an effective return to compliance.

Infringement notices

7.20 Part 5 of the regulations sets up an infringement notice penalty regime for all building activities at leased federal airports.

7.21 The infringement regime allows the ABC to issue infringement notices against a person who the ABC believes on reasonable grounds has committed an offence under the Act for which an infringement notice is applicable (section 71 of the regulations). Examples of offences include undertaking building activities at leased federal airports without approval and occupying or using buildings or works that have not been certified.

7.22 The infringement notice must specify, amongst other things, details of the alleged offence and how and when the penalty can be paid. The penalties for infringement notices are set as one-fifth of the maximum fine that may be imposed for an offence by a court, as set out under 'Penalties' below.

7.23 Under the regulations, the ABC, or the Secretary, may extend the period for payment of the infringement notice penalty and may allow payment by instalments (subsection 74 (1) of the regulations).

7.24 If the infringement notice is not paid within the prescribed period, liability for the alleged offence is not discharged and the person may be prosecuted for the offence. If this occurs, the ABC must liaise with the department. The department will consider whether to refer the matter for prosecution.

7.25 A decision to issue an infringement notice is not subject to merits review. However, a person may dispute an infringement notice by making written representations to the Secretary seeking withdrawal of the notice (section 75 of the regulations).

7.26 Before deciding to issue an infringement notice, an ABC should take into account all relevant evidence available and keep records of the reasons for their decision to give such a notice.

Penalties

7.27 Penalties are expressed in penalty units. The monetary value of a penalty unit is prescribed by the *Crimes Act 1914 (Cth)*.

7.28 Penalties specified in the Act are set out in Table 16 below.

Table 16 - Offence penalties

Offence (section of Act)	Penalty
Carry out building work without approval (section 99)	250 penalty units for an ALC (subsection 99(2)) 50 penalty units for a person other than an ALC (subsection 99(4))
Contravene a condition of approval (section 102)	50 penalty units
Contravene a remedial direction (section 103)	50 penalty units
Occupy or use without a certificate of compliance (section 106)	250 penalty units for an ALC (subsection 106(3)) 50 penalty units for a sub-lessee of an airport lease (subsection 106(6))
Contravene a condition of a certificate of compliance (section 108)	50 penalty units
Contravene a remedial direction (section 109)	50 penalty units

Prosecution

7.29 ABCs must liaise closely with the department when a situation appears to be heading towards litigation. The Commonwealth's Director of Public Prosecutions (or the department itself) may initiate prosecutions for matters where the department recommends this as the appropriate response.

7.30 Payment of an infringement notice penalty excuses a person from the possibility of prosecution.

7.31 Part 5 of the regulations provides that a person may be prosecuted for an offence without an infringement notice first being issued or following the withdrawal of an infringement notice. This should only be considered in the most serious of circumstances, including but not limited to, situations where there has been a death, or a real and imminent threat to life.

7.32 Detailed evidence must be documented at the time the alleged offence is identified by the ABC. If it cannot be documented immediately, it should be documented as soon as possible thereafter.

8. Administration, Information and Governance

Records management

8.01 All relevant information relating to building control activities must be captured and retained in the department's electronic document and records management system (EDRMS). All documents uploaded to ABCO, including those generated by ABCO itself, are automatically deposited in the EDRMS without any manual input by any party.

8.02 ABCs are required to document decisions and outcomes, including records of meetings and discussions, which are not otherwise uploaded to or automatically captured by ABCO. This can be achieved using ABCO's 'Assessment notes' function or by uploading a separate file note (or similar) to ABCO as a reference document. In many instances, this will include discussions or email exchanges with the department relating to a specific application.

8.03 ABC functions may be subject to the department's internal audit process as well as reviews by the Australian National Audit Office. Such processes may include desktop reviews of any and all documents and records relating to one or more building activity application(s).

8.04 Recordkeeping and the gathering of evidence are critical elements of the regulatory process.

8.05 Whilst ABCO is intended as the primary application and document handling mechanism for all on-airport building activity, it is recognised that some documentation will be provided to ABCs in hard copy form. These hard copies are to be scanned and uploaded to ABCO as soon as possible to ensure a complete record is held for each application.

8.06 At the completion of a project, both the ABC and applicant are to ensure all relevant documents are uploaded to ABCO prior to the application being set to 'closed'. The complete ABCO record for each project is automatically archived in the department's EDRMS for future reference by the ABC and the department if required.

Confidentiality and privacy

8.07 ABCs and departmental staff must not disclose any information obtained in the performance of the airport building control function or the exercise of any powers under the Act and the regulations (the ABC function) to any person who does not have a lawful and proper need to access the information.

8.08 In relation to the protection of personal information, ABCs and department staff must:

- only use or disclose information obtained through the performance of the ABC function in accordance with legislative and contractual obligations
- not engage in any practice which would breach an Australian Privacy Principle contained at section 14 of the *Privacy Act 1988*
- comply, as far as possible, with any policy or guidelines issued by the Privacy Commissioner or the department, and
- ensure any other party who may be required to deal with personal information is made aware of the obligations regarding protection of personal information.

Freedom of information

8.09 Documentation relating to the decisions and functions of ABCs are discoverable under the *Freedom of Information Act 1982 (Cth)* (the FOI Act). As such, all relevant documentation (as discussed under 'Records management' above) must be recorded formally with due regard for the public trust invested in ABCs and in the department.

8.10 If an ABC receives a request for information, they should contact the ABC Network Coordinator without delay so that the department's Freedom of Information Officer can be promptly notified and coordinate the request.

8.11 No information held by an ABC or ABC office is to be released to any person who does not, by virtue of their direct involvement in a development, have a lawful and proper need to access the information.

Security

8.12 All ABCs and their support staff who occupy department office spaces are required to hold an Australian Government Baseline security clearance. The department can assist in commencing this process.

8.13 An Australian Security Identification Card (ASIC) is required for ABCs and other staff to obtain unescorted access to the secure areas of security-controlled airports that have regular public transport services. ABCs can apply for an ASIC through the ALC (refer *Aviation Transport Security Regulations 2005*, Subdivision 6.5.2).

8.14 While using the department's premises, ABCs (and their personnel) must clearly display their departmental access pass at all times.

8.15 Where work is to be undertaken at the department's premises, ABCs and their personnel must protect and secure departmental assets and information including information technology systems under their control, in accordance with the Protective Security Policy Framework, the department's Protective Security Manual, Protective Security Policy, Secure IT Information Technology and Electronic Information Security Policy.

9. Appendix

Item 1: ALC Consent Example Wording

Standard Language for ALC Consent

The following standard language may be adopted (and appropriately adapted in consultation with the relevant ABC to suit various ALCs' requirements) in ALC consent documents included in applications.

In providing this consent on behalf of <<insert ALC name>> I declare that I have reviewed and assessed the application against each of the following criteria and requirements.

Building activity application content requirements
I confirm, to the extent possible within my role and qualifications, that the application as presented to <<ALC>> contains all the information and documentation, including suitably prepared design drawings and design and engineering certificates, required for the purposes of sections 15 through to 18 of the regulations.

Final Master Plan for the airport
The proposed development is consistent with the final master plan for the airport in that it <<insert details about precincts/zoning, protected airspace, neighbouring land uses, ground transport impacts/connections, aviation capacity, etc.>>.

Major Development Plan
The proposed development does/does not form part of an approved Major Development Plan (MDP).

Where the proposal does form part of an approved MDP, the application is consistent with that MDP on the basis that it is within the footprint of the development as described in the MDP, it does not create impacts which have not been addressed in the MDP and it adequately addresses all commitments and conditions made during the approval process for the MDP.

Where the proposed development does not form part of an approved MDP, I declare it is <<ALC's>> view that an MDP is not required for this proposed development because <<insert details>>.

ALC's planning objectives for the airport
The proposed development is consistent with <<ALC's>> planning objectives for the airport in that it <<insert details>>. <<ALC>> has had regard to the matters set out at section 28 of the regulations in addition to <<other matters relevant to the application>>.

Final Environment Strategy for the airport
The proposed development is consistent with the final environment strategy for the airport.

The application adequately addresses all environmental impacts which might reasonably be expected to occur on the site, including <<add as appropriate>>. The application contains a suitable Construction Environment Management Plan (if required) and Operational Environment Management Plan (if required) for the development. Management plans are also included in the application for <<PFAS, acid sulphate soils, construction noise, dust suppression, etc. as appropriate>>.

Aviation considerations
I confirm that <<ALC>> has considered the potential for aviation impacts (such as penetration of protected airspace, lighting, aircraft noise, aviation security and public safety, and the efficiency of aviation operations at the airport).

Publication
I confirm that the details of the application and <<ALC's decision on consent>> have been duly published to <<ALC's>> website for the purposes of sections 30 and 31 of the regulations.

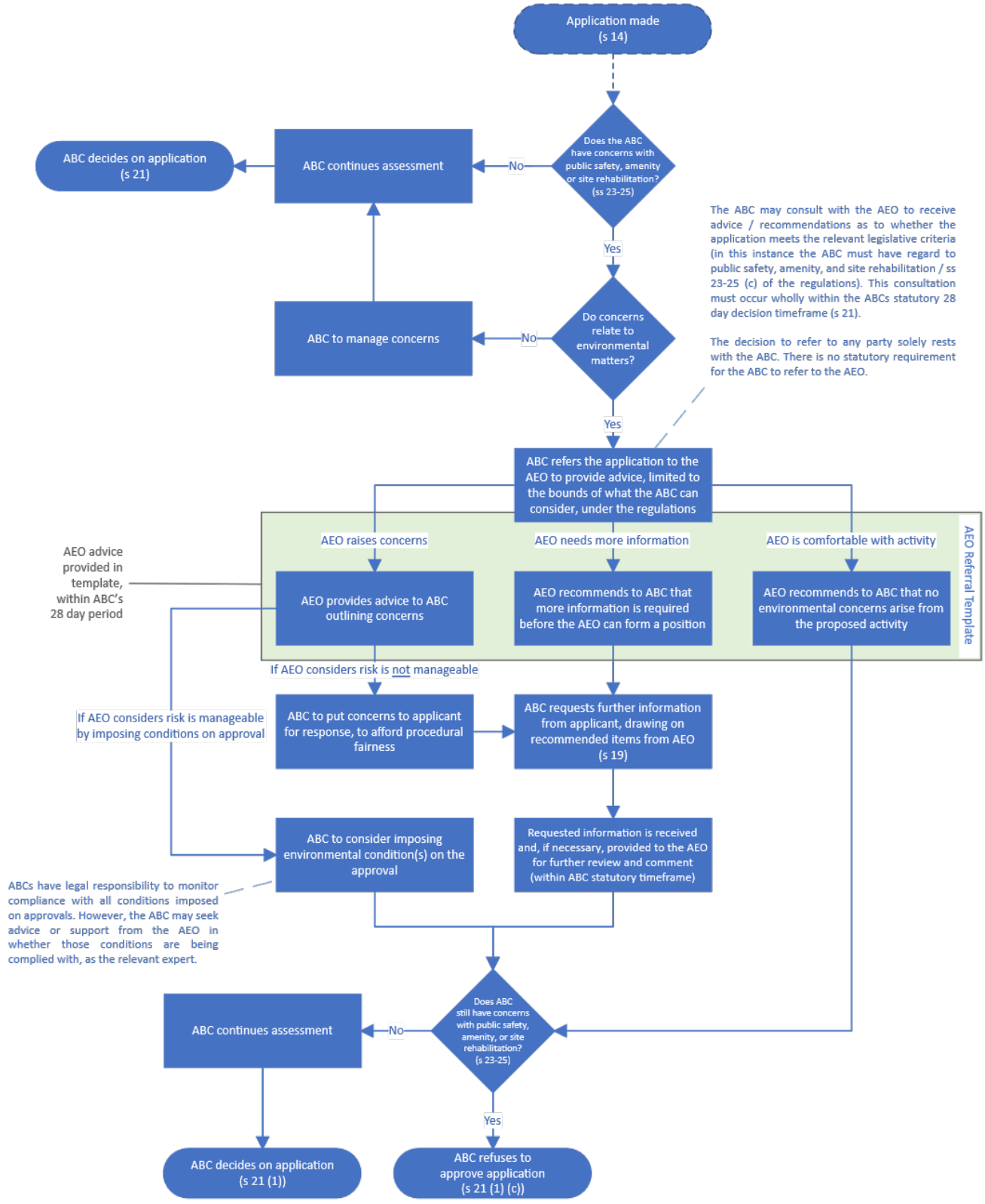
Endorsed Documentation

<<list of documents submitted for consent (including drawing numbers and revisions)>>

Item 2: ABC AEO Referral Toolkit

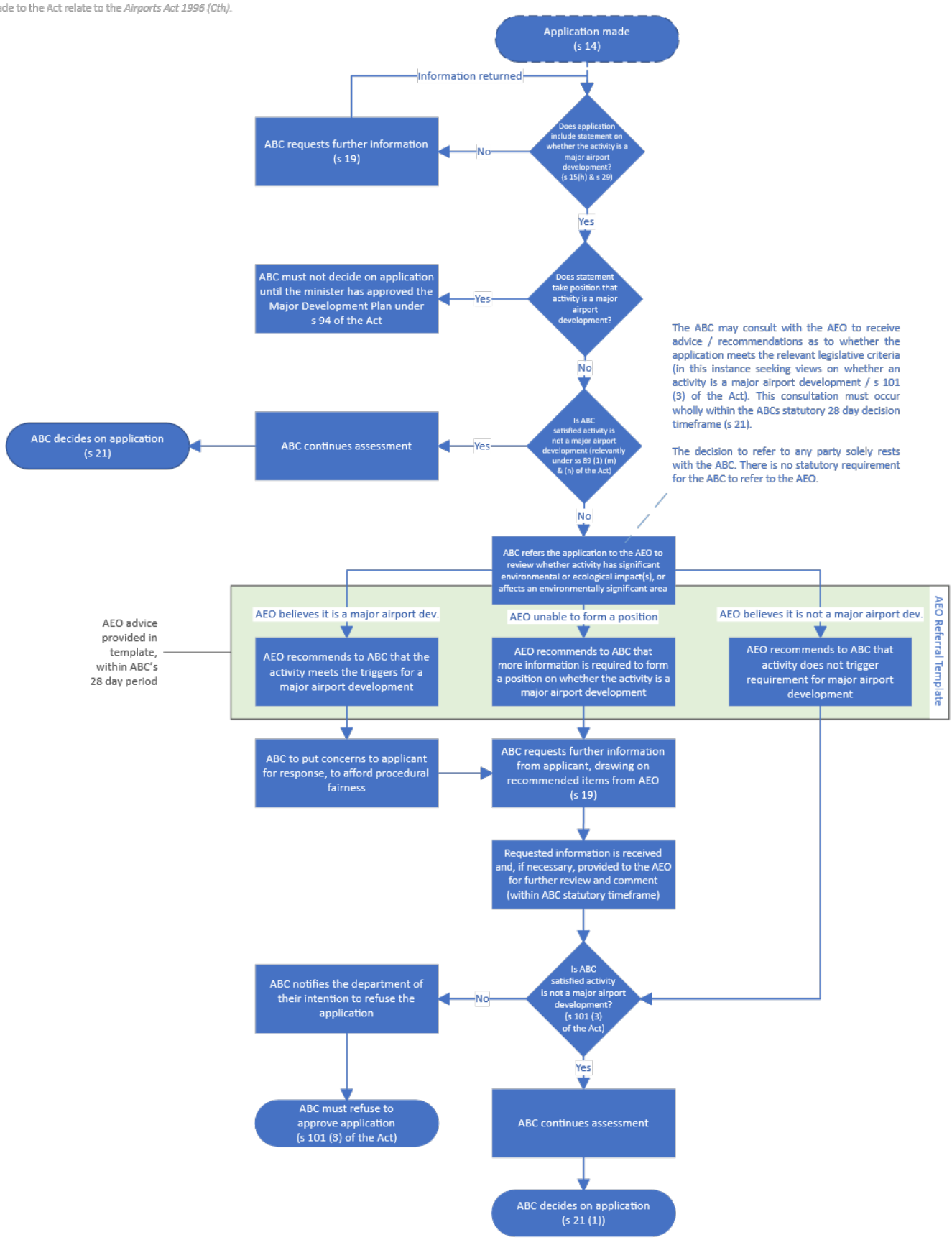
SAFETY, AMENITY AND SITE REHABILITATION

References made to Sections (abbreviated to s) relate to the Airports (Building Control) Regulations 2025.
References made to the Act relate to the *Airports Act 1996 (Cth)*.



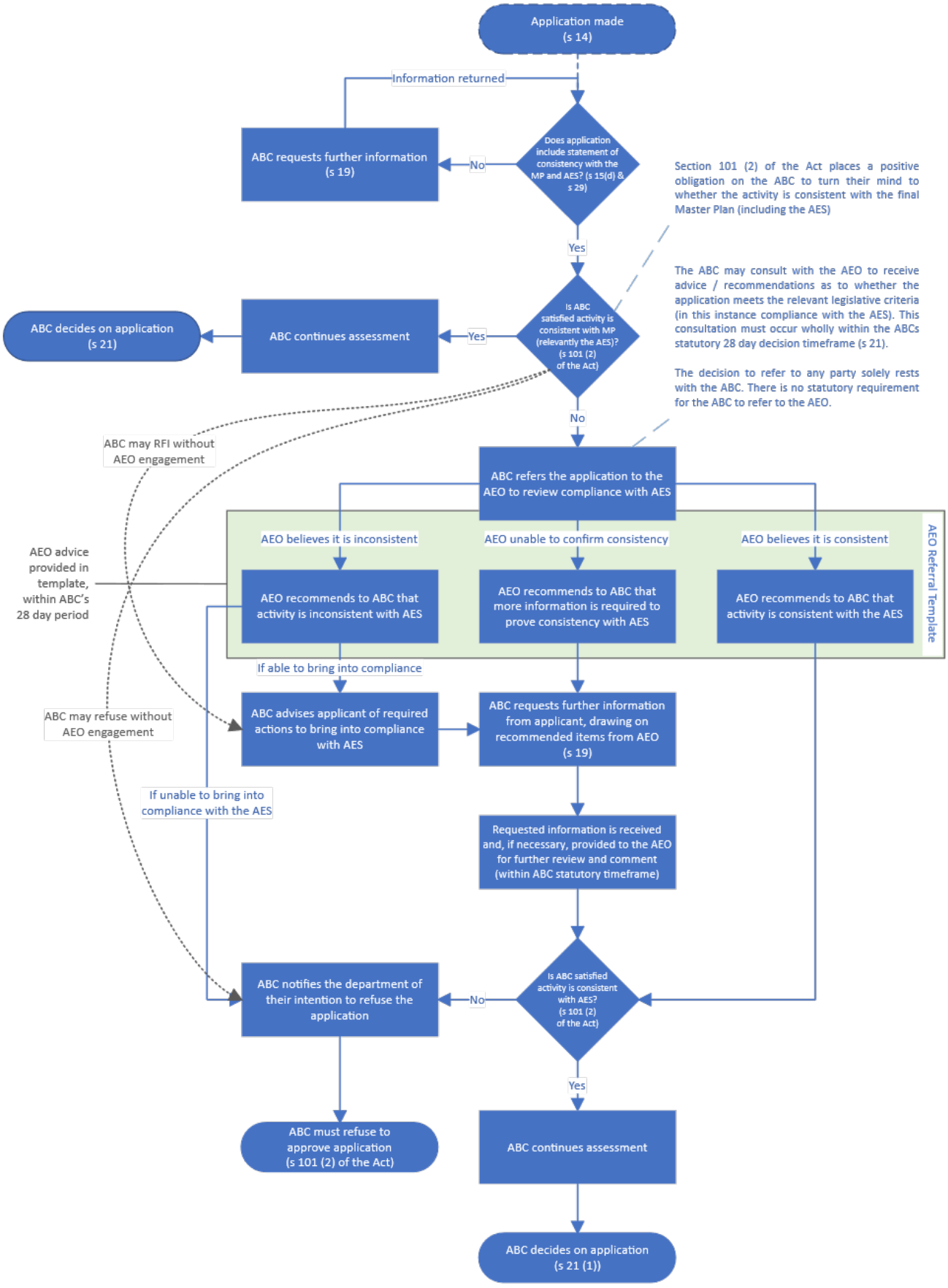
ASSURANCE OF MAJOR AIRPORT DEVELOPMENT

References made to Sections (abbreviated to s) relate to the Airports (Building Control) Regulations 2025.
References made to the Act relate to the *Airports Act 1996 (Cth)*.



CONSISTENCY WITH MASTER PLAN

References made to Sections (abbreviated to s) relate to the Airports (Building Control) Regulations 2025.
References made to the Act relate to the *Airports Act 1996 (Cth)*.



Australian Government
Department of Infrastructure, Transport,
Regional Development, Communications, Sport and the Arts

Airport Environment Officer (AEO) Referral

Building Activity Number (BAN): Insert BAN

Airport Name: Choose an item.

Advice Due Date: Click or tap to enter a date.

Contact Officer: Insert text

Legislative Basis for Request	
☐ **Consistency with Master Plan**	Section 101 (2) of the Act
☐ **Consistency with Approved Major Development Plan**	Section 101(3) of the Act
☐ **Check for Major Airport Development**	Subsections 89 (1) (m), (n), (na) & (nb) of the Act and section 21 (6) of the regulations
☐ **Public Safety**	Sections 23/24/25 (1) (c) (i) of the regulations
☐ **Amenity During Conduct of Building Activity**	Sections 23/24/25 (1) (c) (ii) of the regulations
☐ **Clean Up / Site Rehabilitation**	Sections 23/24 (1) (c) (iv) or section 25 (1) (c) (iii) of the regulations
☐ **Other Provision(s):**	Insert provision(s)

Regulatory Documents / Statements Provided (tick all received as at date of referral)	**Regulatory Provision**
☐ ALC consent (including ALC declaration(s))	Sections 27 and 29
☐ A statement describing how the activity is consistent with the final master plan and environment strategy.	Subsection 15 (d)
☐ If the building activity is or part of a major airport development - a statement describing how the activity is consistent with the approved major development plan (if any) or any exemption declared.	Subsection 15 (f)
☐ If the building activity is not, or does not comprise part of, a major airport development - a statement to that effect.	Subsection 15 (h)
☐ If the building activity is, or comprises part of, a draft major development plan - a statement to that effect.	Subsection 15 (i)
☐ The site plan for the building activity, and depiction of proposed development.	Subsection 15 (j)
☐ A statement setting out proposed arrangements for clean-up and rehabilitation of the site of the building activity	Subsection 15 (m)
☐ ALC endorsed environmental pack	As per arrangement with ALC
Additional Relevant Documents for AEO Review	

Reason for Referral

Airport Building Controller (ABC) Comments

This document shall be saved as an official record against the listed application and may be provided to the applicant where necessary to do so, in order for the applicant to respond to concerns raised in the advice.

References to the regulations mean the Airports (Building Control) Regulations 2025, and references to the Act mean the Airports Act 1996 (Cth).

AEO Response

1) Advice provided must be aligned to the language, scope and purpose of the Airports (Building Control) Regulations 2025.
2) Advice should take into account the matters considerable by the ABC under the regulations and the Act.
3) Advice must be provided within the ABCs statutory decision-making timeframe (28 calendar days for an approval, and 14 calendar days for a certificate of compliance). The due date listed on the request has considered this.
4) The ABC may decide on an application at any time within the statutory period.
5) Further information from the applicant or ALC may only be requested by the ABC (under sections 19 and 47 of the regulations).
6) AEOs are encouraged to denote if advice is recommended to be included as a condition on an approval or certificate, and provide those conditions in a way that can be transcribed onto the approval / certificate by the ABC. Conditions must be directly and closely linked to the Airports (Building Control) Regulations 2025.
7) AEOs are encouraged to clearly list requested further information in a way that can be copy and pasted by the ABC into ABCO.

Consistency with Master Plan (MP) and Airport Environment Strategy (AES)

Is the application consistent with the AES and commitments, detailed within a CEMP (if required), and do management plans include pollution prevention, contamination management, protection of biodiversity, heritage, amenity, and environmental risk controls?

☐ *Refer to statement(s) describing how the activity is consistent with the final MP and AES.*

Consistency with Approved Major Development Plan (MDP)

Is the application consistent with any relevant MDP commitments and the Minister's conditions of approval?

☐ *If applicable, refer to statement describing how the activity is consistent with an approved major development plan (if any) provided?*

Meets Trigger(s) for Major Airport Development

Is the application first a 'development' for the purposes of section 89 of the Act, and if so, does the application include matters under section 89 of the Act that may be considered a Major Airport Development trigger, such as flora and fauna, cultural heritage, noise and air quality, and stormwater?

☐ *Was a statement provided that the activity is not or does not comprise part of a major airport development?*

☐ *Will the building activity be likely to have significant environmental or ecological impact?*

☐ *Will the building activity affect an 'environmentally significant area' as defined in an environment strategy?*

☐ *Will the building activity have a significant impact on the local or regional community?*

Public Safety

Does the application adequately address relevant environmental aspects such as contamination of PFAS, contaminated soil or groundwater disturbance, hazardous materials handling, stockpiling, dust/air pollution, vapour risks, handling & release of construction waters, noise, spill risk to people or sensitive environments, and interaction with operational airport areas?

☐ *Have environmental public safety issues been identified and addressed?*

Amenity During Conduct of Building Activity

Does the application consider matters which may include environmental conditions including dust, noise and vibration, odour, visual disturbance, impacts to adjacent airport users or sensitive receptors during construction - not the finished building?

☐ *Have relevant amenity impacts been identified and adequately addressed?*

Clean Up / Site Rehabilitation

Does the application adequately address relevant environmental aspects such as management of contaminated soils, reinstatement of disturbed areas including stockpiles, incident notifications, and waste removal and rehabilitation consistent with AES commitments?

☐ *Have site cleanup and rehabilitation arrangements been identified and adequately addressed in the application?*

Other Provision(s): Insert provision(s)

If Further Documentation Required	Legislative Basis	Reason for Request
☐ ALC endorsed CEMP or EMP	Choose an item.	
☐ Erosion and Sediment Control Plan	Choose an item.	
☐ Acid Sulfate Soils Management Plan	Choose an item.	
☐ Dewatering Management Plan	Choose an item.	
☐ Stockpile Management Plan	Choose an item.	
☐ PFAS Risk Assessment	Choose an item.	
☐ Contamination Site Investigation	Choose an item.	
☐ Vegetation Clearing / Biodiversity Assessment	Choose an item.	
☐ Heritage Assessment	Choose an item.	
☐ *Other (list):*	Choose an item.	

AEO Advice Completion	
Advice Completed On (Date)	Click or tap to enter a date.
Advice Provided By (Name)	Insert text